

ASIAN PACIFIC AMERICAN LEGAL CENTER OF SOUTHERN CALIFORNIA

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F PRESENTATION TO THE ATTORNEY GENERAL'S COMMISSION ON
RACIAL, RELIGIOUS, AND MINORITY VIOLENCE

by

KENT WONG, Staff Attorney
Asian Pacific American Legal Center

Wong
5/23/85

Thank you for this opportunity to address the Attorney General's Commission on Racial, Religious, and Minority Violence. I am a staff attorney for the Asian Pacific American Legal Center. The Asian Pacific American Legal Center has two components: first, we provide direct legal services in the areas of immigration, housing, employment, government benefits, and family law; and second, we serve as an advocacy group for the Asian Pacific community.

The Asian Pacific American Legal Center is the only center of its kind to serve the close to 1 million Asian Pacific Americans in Southern California. Of these close to 1 million Asian Pacific Americans, 2 out of 3 are immigrants, and the large influx of Asian immigrants is causing the disparity between the immigrants and the native-born to grow.

Within Los Angeles and Orange Counties, alone, there is the highest concentration of Koreans, Japanese, Pilipinos, Pacific Islanders, and Southeast Asians in the country, and one of the highest concentrations of Chinese in the country. Immigrants are often special targets for racially-motivated attacks, and are often the least aware of their rights.

Our Legal Center recently initiated a project to study the rise of racially-motivated violence against the Asian Pacific community, and to explore constructive measures to deal with this problem. We have particular concerns regarding the sufficiency of existing legislation such as the Ralph Civil Rights Act.

Before discussing some of the findings of our project, I wanted to briefly provide some perspective regarding the concerns of the Asian Pacific community in relation to the rise of racially-motivated violence, and our interests in exploring all legal rights and remedies available.

There is a pervasive myth that Asian Americans have been able to completely assimilate into the mainstream, that our communities are virtually free from poverty or discrimination. The media perpetuates this misconception through continually referring to Asian Americans as the "model minority." However, reality continues to contradict this popular myth.

The Asian Pacific Americans constitute one of the fastest growing populations in California, as well as across the country. The recent rise in Asian Pacific immigrants and refugees has brought with it a whole new dimension of cultural and language barriers which prevent Asian Pacifics from emerging from marginal status. With this recent rise in Asian immigration is also a growing anti-Asian and anti-immigration sentiment, which has on occasion taken the form of racially-motivated violence.

The recent wave of racially-motivated violence against Asian Americans can only be understood if placed in a historical context. If we look at the history of Asians in this country, we see a clear pattern that emerges whereby, historically, Asian immigration has been encouraged to supply a source of cheap labor. Yet, when there are economic downturns, when there is a need to find blame for the social and economic problems in this country, Asians have been conveniently targeted. In early Los Angeles history, many Chinese were lynched, by white vigilantes, a few hundred yards from where we are gathered today. World War II witnessed a new tide of anti-Asian hysteria, where Japanese Americans were persecuted, stripped of their homes, jobs, and possessions, and herded away like cattle in concentration camps.

Today, we are witnessing a resurgence of anti-Asian sentiment, manifest by growing problems of vandalism, physical attacks, and on some occasions, murder. The intolerance and anti-Asian and anti-immigrant sentiment is also reflected in "English-Only" rules, by declarations of English as the "official language," in opposition to the bilingual ballot, and the list goes on and on.

The rise in racially-motivated violence is a national phenomena. The 1982 brutal murder of Vincent Chin in Detroit, Michigan, at the hands of two unemployed Caucasian auto workers who mistook Chin for a Japanese, is a tragic example of this new tide of racial violence. In Davis, California, a 17-year old Vietnamese high school student was stabbed to death by a white classmate in a racially-motivated killing in 1983. Last year, a memorial marker in memory of the slain student at Davis High School was defaced with swastikas and the words, "Death to gooks." Also in 1983, a 47-year old Vietnamese woman was shot and killed by

an unknown assassin while she was in her home in Canoga Park, following complaints by Caucasian neighbors who were unhappy with the presence of the Vietnamese extended-family.

In Monterey Park, racist signs and bumper stickers have appeared, including the sign, "Will the last American to leave Monterey Park please bring the flag." Last June, a 17-year old Chinese student in San Marino was beaten up by white students in a confrontation that began with the yelling of racist slurs. It was the 3rd race-related school fight between white and Chinese students that had been reported that year. Last November, a 13-year old Korean girl was abducted at knife-point in a parking lot of Walnut High School by a Caucasian man and sexually molested. He referred to her as Chinese, and told her not to come back to school any more. Other incidents of racial tension have been reported from Southeast Asians in Orange County, Koreans in South Central Los Angeles, and the Vietnamese in Alhambra.

Now that we have provided some insight as to the problem, what do we see as the solution? Unfortunately, there are no easy answers. The weakness in the response to racial violence often involves a situation where we are reacting after the fact. Currently at the Legal Center, we are exploring methods of improving racial harmony and understanding, eliminating the ignorance and prejudice that provide the conditions for racially-motivated violence.

The approach must be comprehensive. We need stronger multi-cultural curriculum in the schools, to promote the experiences and contributions of Asians and other minorities in building this country. We need more favorable depiction of Asians in the media. Unfortunately, Asian actors and actresses are frequently forced to accept roles as gangsters, prostitutes, servants, and other demeaning roles. This perpetuates stereotypes of Asians as somewhat less than human.

In addition, there must be the legal response. We need to educate the community about the legal recourses that are available to counteract racially-motivated attacks. One of the most important objectives of this is to break the "fear factor," the sense of hopelessness and frustration that often characterizes victims of racial attack. The parents of the Asian students in San Marino High responded to the racial attacks by moving their families out of the community. This is an unfortunate response by victims of racism with no understanding of other recourse.

We are happy to see more information and discussion being promoted with regards to existing legislation such as

the Ralph Civil Rights Act. The dialogue and communication itself is a positive step in first recognizing the problem, and then discussing constructive measures to deal with the situation.

There are three main areas of concern with regards to the sufficiency of existing legislation which we would like to discuss today:

- 1) The lack of community awareness and knowledge of the existing legal rights and recourses regarding racially-motivated violence. Very, very few within the Asian community are knowledgeable regarding the avenues which can be pursued in combating racial violence. Part of the problem lies in the lack of materials and resources available in a language that Asians can understand. The Asian Pacific American Legal Center is happy to assist in obtaining translation for materials for the Commission, provided that the Commission cover costs of typesetting and printing.
- 2) The feasibility of enforcement of existing legislation, specifically the Ralph Civil Rights Act. Would bringing court action under the Ralph Civil Rights Act be worthwhile to the plaintiff? Although penalties of up to \$10,000 may be assessed, what if the perpetrator of the act of racial violence is judgment proof? The time and costs involved in bringing court action may be prohibitive.
- 3) What is the expectation of police cooperation? Police must be sensitized to the issues of racial violence, and must be notified of the Ralph Civil Rights Act and other existing legislation directed against racial violence. In the Asian Pacific community, there is generally tremendous hesitation to file complaints or charges forward to the police. Much racial violence goes unreported.

In conclusion, the Asian Pacific American Legal Center is very interested in continuing collective efforts in combating racially-motivated violence. Today's hearing represents a good first step in promoting dialogue and discussion, and in providing greater awareness and understanding of the issues and problems, so that together we can begin to explore constructive solutions. Thank you.

**ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC,
RELIGIOUS, AND MINORITY VIOLENCE**

MM
File



John Van de Kamp
Attorney General

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Marty Mercado  
Coordinator  
(916) 324-7859

April 25, 1985

Letter sent to all City Attorneys, DA's, District Attorneys  
Association, Peace Officers Association, and Sheriff's Association,  
Public Defender's Association, and major civil rights organizations  
*City/county HRC*

In May of 1984, Attorney General John Van de Kamp established the Commission on Racial, Ethnic, Religious and Minority Violence as a response to a growing and disturbing trend toward violence against members of racial, ethnic, religious and other minority groups. In an effort to deal most effectively with this area of growing concern, the RERMV Commission has been divided into three subcommittees - Education/Community Relations, Litigation, and Legislation.

The primary purpose of the Legislation subcommittee is to assess the deficiencies of current law and make specific recommendations for legislation to improve and strengthen the laws to combat crimes whose motivation is based on racial or religious bigotry.

The Ralph Civil Rights Act of 1976 provides that ... "all persons have the right to be free from any violence or intimidation by threat of violence, committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, age, disability, sexual orientation, or position in a labor dispute...". Further, the bill provides civil remedies for a violation of the right, and authorizes the Attorney General to bring an action under appropriate circumstances.

It appears that the Ralph Act is not being used for the intent for which it was established, and we are interested in trying to determine reasons why not, how it could be strengthened, if necessary, and, in addition, to also look at criminal remedies already on the books to see if they are effective and sufficient.

In addition, SB 2080 (Chap. 1482, Statutes of 1984) which became effective January 1, 1985, requires that the Attorney General commence a one-year project to develop a program model to collect, compile, and analyze information on racially, ethnically, and

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95814

religiously - motivated crimes. SB 2080 requires that the project "...include, but not be limited to, development of uniform guidelines for consistent identification of racial, ethnic, and religious crimes...". Although SB 2080 was largely limited to racial, ethnic, and religious crimes, the Attorney General has requested that crimes motivated by sexual orientation also be included in the pilot project because of increasing incidents of such crimes.

Attached are proposed definitions and guidelines which have been developed for this purpose. We solicit your input with respect to these guidelines and definitions, and welcome any comments or suggestions you may have.

In order to address these and other related questions, to solicit ideas on legislative reforms, the Legislative Subcommittee will hold a hearing on Thursday, May 23, 1985 in the City Council Chambers, in Los Angeles, beginning at 9:00 a.m. We also plan to hold a hearing in San Francisco probably in late June.

We are requesting that participants address specific suggestions for criminal or civil legislation, and have developed the attached questionnaire for this purpose. In order that we have the benefit of your input, we would appreciate your completing and returning the questionnaire whether you plan to attend the hearing or not.

If you wish to testify at the hearing, please contact Marty Mercado, Coordinator, at (916) 324-7859 by May 8 to allow for proper planning. As soon as the agenda has been finalized, we will send you a copy.

We appreciate your attention and consideration, and look forward to hearing from you.

Sincerely yours,

DIANE C. YU, Chairperson  
Legislation Subcommittee

cc: RERMV Commission members

OSIAS GOREN, FEHC

STEVE OWYANG

MARK GUERRA, DFEH

EXECUTIVE STAFF  
COMMUNITY LIAISON REPS  
SANDI GLOUT  
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ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY  
VIOLENCE

PUBLIC HEARING  
9:00 - 4:00 PM  
THURSDAY, MAY 23, 1985  
CITY COUNCIL CHAMBERS  
LOS ANGELES, CALIF.

The Ralph Civil Rights Act of 1976 (Code Civ. Proc., §51.71) provides that "...all persons have the right to be free from any violence or intimidation by threat of violence, committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute...". It also provides civil remedies for a violation of the right, and authorizes the Attorney General to bring an action under appropriate circumstances. (Exhibit A)

In addressing the following questions, we would appreciate your candid views as to the effectiveness and enforceability of proposed laws, and request specific suggestions you might have in that regard:

1. Is it clear what responsibility law enforcement officers have to enforce the Ralph Civil Rights Act? *No.*
2. In your opinion, why is the Ralph Civil Rights Act not being used more frequently? *Probably, public ignorance*
3. Should there be criminal sanctions for violation of the Ralph Act? *If possible methods are unavailing*
4. How could the Ralph Act be strengthened? What problems do you perceive in doing so? *Need more information*
5. How does the problem of judgement-proof defendants figure into the effectiveness of the Ralph Act? How might this be remedied?
6. Should the Attorney General be given more authority to bring civil rights actions under the Ralph Act? For example, should the AG be empowered to bring damage actions for violation of civil rights on behalf of victims? (Under the statute as presently written, the AG is empowered to bring injunctive actions only where a pattern and practice of civil rights violations is shown to exist.) *Yes*
7. Would it be of any assistance to law enforcement to have new penal laws directed specifically at violations of civil rights? *yes*
8. What would be the effect or usefulness of providing for sentence enhancements where crimes are found to have been motivated by prejudice or bigotry? *Monetary fines would probably be useful; if perpetrators are without funds, then work projects in the offended areas might be helpful as deterrents*

9. What about mandatory jail time such as exists with drunk driving? *I doubt this would be a productive kind of deterrence.*
10. It is a criminal violation of federal law to conspire to violate the civil rights of a person. Would such an amendment to the Ralph Civil Rights Act be useful? *yes*
11. What would be the difficulties in prosecuting such a conspiracy complaint, and what should be included to minimize these difficulties? *It would depend on the Monetary Circumstances of the offender.*
12. Are the guidelines and definitions of RERMV crimes which are being proposed workable in your opinion? What problems do you perceive in the implementation of this definition?

Please feel free to make any additional comments you wish by attaching additional sheets.

Submitted by: Herbert F. Troupe

AGENCY/ORGANIZATION Black Agenda Inc

200 East Slauson Ave, Los Angeles 90011

PLEASE RETURN QUESTIONNAIRE TO: MARTY MERCADO, OFFICE OF THE ATTORNEY GENERAL, 1515 K STREET, SACRAMENTO, CA., 95814 WHETHER YOU PLAN TO TESTIFY IN PERSON OR NOT.

Dear Sir,

I personally am not sure how helpful I can be in regard to your inquiry, and fact finding. However you can reach me, or better yet, you can reach Mr. Norman B Houston here at the Black Agenda's office at 213-233-2030, Mr. Houston is the Executive Director of the B/A.

Sincerely,

Herbert F. Troupe

Special Assistant, Black Agenda



# ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



John Van de Kamp  
Attorney General

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Oakland

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Marty Mercado
Coordinator
(916) 324-7859

May 10, 1985

NOTICE OF PUBLIC HEARING

The Legislative Subcommittee of the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence will hold a hearing on Thursday, May 23, 1985, in the City Council Chambers, City Hall, 200 N. Spring Street, Los Angeles, from 9:00 a.m. to 4:00 p.m., to hear testimony on the effectiveness and sufficiency of existing legislation relating to violence and bigotry.

The public is invited to attend.

For further information contact: Marty Mercado, Coordinator, Office of the Attorney General, 1515 K Street, Sacramento. (916) 324-7859.

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ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



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Oakland

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Marty Mercado  
Coordinator  
(916) 324-7859

## PUBLIC HEARING ON EFFECTIVENESS AND SUFFICIENCY OF EXISTING LEGISLATION RELATING TO VIOLENCE AND BIGOTRY

MAY 23, 1985  
CITY COUNCIL CHAMBERS  
LOS ANGELES, CALIFORNIA  
9:00 a.m. - 4:00 p.m.

## APPEARANCE SCHEDULE

- 9:00 - Introduction and Opening Remarks - Diane Yu, Chair,  
Legislative Committee
- 9:15 - Earl Sullaway, Department of Fair Employment and Housing
- 9:30 - Gene Mornell, Los Angeles County Human Relations Commission
- 9:45 - David Lehrer, Anti-Defamation League
- 10:00 - Mel Ilomin, Asian Pacific American Legal Center
- 10:15 - Monty Davis, Arden Grove Police Department
- 10:30 - Bill Flanagan, Western Center on Law and Poverty
- 10:45 - John Phillips, Deputy City Attorney, Los Angeles
- 11:15 - Dr. Allen Seid, Asian Pacific American Advocates of Calif.
- 12:00 - Lunch Break
- 1:30 - Hearing will resume

Others wishing to testify will be taken in order of sign-up. Please  
sign in with secretary.

ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY  
VIOLENCE

PUBLIC HEARING  
9:00 - 4:00 PM  
THURSDAY, MAY 23, 1985  
CITY COUNCIL CHAMBERS  
LOS ANGELES, CALIF.

The Ralph Civil Rights Act of 1976 (Code Civ. Proc., §51.71) provides that "...all persons have the right to be free from any violence or intimidation by threat of violence, committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute...". It also provides civil remedies for a violation of the right, and authorizes the Attorney General to bring an action under appropriate circumstances. (Exhibit A)

In addressing the following questions, we would appreciate your candid views as to the effectiveness and enforceability of proposed laws, and request specific suggestions you might have in that regard:

1. Is it clear what responsibility law enforcement officers have to enforce the Ralph Civil Rights Act?
2. In your opinion, why is the Ralph Civil Rights Act not being used more frequently?
3. Should there be criminal sanctions for violation of the Ralph Act?
4. How could the Ralph Act be strengthened? What problems do you perceive in doing so?
5. How does the problem of judgement-proof defendants figure into the effectiveness of the Ralph Act? How might this be remedied?
6. Should the Attorney General be given more authority to bring civil rights actions under the Ralph Act? For example, should the AG be empowered to bring damage actions for violation of civil rights on behalf of victims? (Under the statute as presently written, the AG is empowered to bring injunctive actions only where a pattern and practice of civil rights violations is shown to exist.)
7. Would it be of any assistance to law enforcement to have new penal laws directed specifically at violations of civil rights?
8. What would be the effect or usefulness of providing for sentence enhancements where crimes are found to have been motivated by prejudice or bigotry?

9. What about mandatory jail time such as exists with drunk driving?
10. It is a criminal violation of federal law to conspire to violate the civil rights of a person. Would such an amendment to the Ralph Civil Rights Act be useful?
11. What would be the difficulties in prosecuting such a conspiracy complaint, and what should be included to minimize these difficulties?
12. Are the guidelines and definitions of RERMV crimes which are being proposed workable in your opinion? What problems do you perceive in the implementation of this definition?

Please feel free to make any additional comments you wish by attaching additional sheets.

Submitted by: \_\_\_\_\_

AGENCY/ORGANIZATION \_\_\_\_\_

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In addressing the following questions, we would appreciate your candid views as to the effectiveness and enforceability of proposed laws, and request specific suggestions you might have in that regard:

1. Is it clear what responsibility law enforcement officers have to enforce the Ralph Civil Rights Act? *No*
2. In your opinion, why is the Ralph Civil Rights Act not being used more frequently? *BECAUSE WE WERE NOT AWARE OF IT.*
3. Should there be criminal sanctions for violation of the Ralph Act?  
*No*
4. How could the Ralph Act be strengthened? What problems do you perceive in doing so? *THE LAW HAS QUESTIONABLE APPLICATION. ITS SIMILAR TO LEGISLATING MORALITY.*
5. How does the problem of judgement-proof defendants figure into the effectiveness of the Ralph Act? How might this be remedied?  
*THAT IS NOT A POLICE PROBLEM.*
6. Should the Attorney General be given more authority to bring civil rights actions under the Ralph Act? For example, should the AG be empowered to bring damage actions for violation of civil rights on behalf of victims? (Under the statute as presently written, the AG is empowered to bring injunctive actions only where a pattern and practice of civil rights violations is shown to exist.)  
*No*
7. Would it be of any assistance to law enforcement to have new penal laws directed specifically at violations of civil rights? *No*
8. What would be the effect or usefulness of providing for sentence enhancements where crimes are found to have been motivated by prejudice or bigotry? *NONE*

9. What about mandatory jail time such as exists with drunk driving?  
WHAT JAIL IN THIS STATE HAS ROOM TO PUT THESE TYPE OF VIOLATORS?
10. It is a criminal violation of federal law to conspire to violate the civil rights of a person. Would such an amendment to the Ralph Civil Rights Act be useful? No.
11. What would be the difficulties in prosecuting such a conspiracy complaint, and what should be included to minimize these difficulties?  
THE SAME AS WITH ANY CONSPIRACY CASE.
12. Are the guidelines and definitions of RERMV crimes which are being proposed workable in your opinion? What problems do you perceive in the implementation of this definition? No.

Please feel free to make any additional comments you wish by attaching additional sheets.

It is the position of this department that there are currently enough state and federal laws to handle problems that may arise under the Ralph Act.

Submitted by: Prof Hayden / Police Legal Advisor  
AGENCY/ORGANIZATION FRESNO POLICE DEPARTMENT

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# ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



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LEGISLATIVE SUBCOMMITTEE PUBLIC HEARING ON EFFECTIVENESS AND SUFFICIENCY OF EXISTING LEGISLATION RELATING TO BIGOTRY AND VIOLENCE

MAY 23, 1985
LOS ANGELES CITY COUNCIL CHAMBERS
LOS ANGELES, CALIFORNIA

Committee Members:

Diane C. Yu, Chair
David Kassoy
John Mack
Judge Armando O. Rodriguez

**ATTORNEY GENERAL'S
COMMISSION ON RACIAL, ETHNIC, RELIGIOUS & MINORITY VIOLENCE**

TRANSCRIPT

**Legislative Subcommittee Public Hearing
May 23, 1985 - Los Angeles**

Diane C. Yu, Chairperson of the Legislative Subcommittee opened the hearing at approximately 9:00 a.m. Commission members present: Msgr. William J. Barry, David Kassoy, and John Saito. Staff present: Louis Verdugo, Deputy Attorney General, Los Angeles; Marty Mercado, Coordinator; Martin Berman, and Mitch Popham, Law Clerks, Civil Rights Enforcement Unit, Los Angeles; Dolores Hernandez, Secretary.

Commissioner Yu: I am chair of the Legislative Subcommittee of the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence. I would like to welcome you and introduce the Chair of the RERMV Commission, Monsignor William J. Barry.

Monsignor Barry: I also would like to welcome you. We are glad that we had the opportunity to have some reaction to the questionnaires from people representing various programs that serve either law enforcement or serve minority people. I am delighted to have the expertise of Diane Yu as our chair of the subcommittee.

Commissioner Yu: I also would like to introduce to you other members sitting here at the table. We have Marty Mercado, staff coordinator for the RERMV Commission, David Kassoy, who is on the Legislation Subcommittee and a member of the Commission, and Louis Verdugo, who is a member of the Attorney General's Staff in the Los Angeles area.

We have convened this meeting in order to gather information and take testimony with respect to the current status of legislation affecting the racial, ethnic, religious, and minority violence situation in California and to inquire whether or not better and stronger remedies, civil and criminal, should be instituted in order to combat this type of violence.

The AG's Commission has been in existence for a year. It has divided into three subcommittees: the Legislation Subcommittee; the Litigation Subcommittee; and the Education/Community Relations Subcommittee. This strategy is based in hopes of reviewing the status quo on three fronts and what we perceive to be an increase in violence motivated by prejudice and hatred towards groups because of their race, ethnic background, sexual preference, age or other impermissible set of characteristics. We hope that the information we gather today will be useful to the Commission in recommending to the Attorney General whether or not new and better legislation should be proposed to combat the increase of violence committed against these groups.

We have prepared for the persons who we have invited today a number of questions we are faced with in the civil area. The Ralph Civil Rights Act which was passed in 1976 is an attempt on the legislature's part to deal with the problems affecting the attacks or violence committed against these groups that we have identified.

The Ralph Civil Rights Act provides that all persons have the right to be free from violence or intimidation by threat of violence committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, age, disability, sexual orientation, or position in a labor dispute. The act also provides for civil remedies for violation of one of these rights and authorizes the Attorney General to bring an action under appropriate circumstances. What we have found is that law enforcement people are unaware for the most part of this Act and they may feel the provisions for civil penalties are insufficient or inappropriate. To that end, we have prepared a number of questions we hope speakers might touch upon in their testimony. (Yu reads questions from #1 to #12, Attachment A) Question #12 refers to Senate Bill 2080, which authorizes data collection and in preparation of a consensus definition of racial, ethnic, religious, and minority violence crimes and what problems you perceive in the implementation of this proposed definition. Of course there are many other subject areas that the speakers may want to cover, we welcome those comments. We would like to invite those who did not contact our staff earlier who wish to speak that they see Dolores Hernandez, also on the Attorney General's staff with us and working with this Commission, to fill out a "request to speak" form and she will make arrangements for you. Our first speaker today is Earl Sullaway from the Department of Fair Employment and Housing. Please speak into the microphone, I believe we are being recorded. Could you identify yourself again for the record.

Earl Sullaway, Deputy Director of the Enforcement Division, Department of Fair Employment and Housing

I am appearing today on behalf of Director Mark Guerra. The DFEH is involved with enforcement of the Ralph Civil Rights Act. By reference within that basic statute the Department is responsible for enforcement of the Fair Employment and Housing Act. Our methods of enforcing and our responsibilities under the Ralph Civil Rights Act, therefore are embodied within the FEH Act and the powers which we follow in any effort to enforce, or indeed, to investigate a complaint that the Ralph Civil Rights Act has been violated, is controlled by that statute. The questionnaire which your staff mailed in advance of today's meeting, anticipated quite skillfully most of the comments which we have to offer regarding our experience and our difficulties in enforcing the Ralph Civil Rights Act. A written response to that questionnaire has been provided and circulated (Attachment B). I hope you all received copies of the response, considering that I am going to limit my remarks.

To summarize however, the Department favors the enforcement of the Ralph Act by organizations equipped and experienced in handling criminal investigation matters, which we think in the final evaluation most Ralph Act violations are.

The Department favors serious consideration of adding criminal penalties, criminalizing if you will, the Ralph Act. We believe that currently there are a myriad of factors mitigating against the use of the Ralph Act. Not the least of these is the nature of the statute itself. As has already been noted it is a civil damage statute. It is a civil damage

statute that is functioning in an area where most victims are more concerned with protection than they are with monetary remedies. There are, however, more discouraging factors where civil damages are considered appropriate by the victims in our process after we investigate a violation of the FEH Act if we find there is cause to believe that a violation has occurred. If we are unable to resolve that dispute through conflict conciliation and persuasion, as is required by the FEH Act, then we have the power and the authority to file an accusation before the FEH Commission. A quasi-judicial body, the FEHC has the power to order such remedies that are appropriate. In our limited experience in actually taking matters before that body, we currently have only one complaint that the Ralph Act has been violated under consideration the by the FEHC. It is in the Sacramento area and it has engendered considerable attention in that immediate area; and, indeed some limited nationwide attention because of who the complaint was filed against. The plaintiff in this case has faced the problem of being subjected, in the midst of our procedure, to a one million dollar defamation suit from the party against who the claim was filed. I think this poses an additional example of the kinds of problems that an exclusively civil remedy brings about for people trying to achieve some adjustment.

Your questionnaire in addition to requesting comments on the difficulties in enforcing the Ralph Act and suggestion about that enforcement posed some questions on proposed guidelines and definition. For collecting information, we support generally the guidelines and definitions as presented with a couple of qualifications. The definition that you were suggesting does not mention perceived protected groups. It goes strictly to defining the areas of interest as violence or threats of violence against individuals because of their protective group. I draw that distinction by offering you the Sacramento case which I referred to previously. In that case an individual was allegedly subjected to verbal assault and threats of physical assault because he was perceived as being Japanese. In fact he was not Japanese but he was perceived as being of Japanese extraction. I think perhaps the way the guidelines are currently written or the way the definition is currently written, it could lead possibly to the exclusion of that kind of problem, that kind of a circumstance, if someone wished to interpret it quite narrowly. Secondly, this is the same kind of concern, the guidelines limit reportable incidents; or suggests that reportable incidents be those incidents which are solely because of an individual's protective group status. A narrow interpretation of that phrase by someone wishing to collect data by one of the local law enforcement agencies could result in the exclusion of circumstances where racial, ethnic, religiously motivated violence was a factor but not the sole factor in an incident.

Commissioner Yu: You don't take the position that the racial, ethnic, or other impermissible motivation must be the sole factor before an investigation or inquiry could be launched?

Earl Sullaway: That is correct. It doesn't in terms of how our Commission regularly addresses discrimination problems; it doesn't even have to be the primary factor. It would only have to be a contributing factor.

That generally completes my presentation. As I stated we did have a written response to the questionnaire. I am available to respond to any questions you might have about my verbal presentation or about the statements made in the questionnaire.

Commissioner Yu: You indicated you thought, and it is in your written response, that it may be appropriate to add criminal penalties to the Ralph Act. Could you elaborate a little bit more as to what types of criminal penalties you are contemplating in that area?

Earl Sullaway: A five year sentence would be fine in terms of the nature of the criminal penalties. I think that we would defer to those with experience in using criminal penalties or employing criminal penalties as a deterrent. And I think, as we make the point in our questionnaire one of our problems is we don't have that kind of experience.

Commissioner Yu: Do you still think that the Department of Fair Employment and Housing should retain the authority under the Ralph Act to pursue these kinds of claims given that it doesn't have the criminal expertise that you are mentioning?

Earl Sullaway: I think that is going to depend upon what changes if any are made in the Act. I think it would be sensible perhaps to, if the Ralph Act is criminalized, to consider more stress on local district attorneys and on the Department of Justice in terms of the best unified attempt possible for civil and criminal penalties.

Commissioner Yu: If you had your way how would you design the framework for an improved Ralph Civil Rights Act? Your long term over-arching goal? Have you given that some thought?

Earl Sullaway: No.

Commissioner Yu: Because one of the things that we are frustrated with is that it does appear that although the Act in language covers these protective status victims that we are concerned about, the means of enforcing it and the remedies don't appear to be well-matched to the type of crime or the concerns that the Commission has and apparently your Department also. So we would be willing to work with you and members of your staff if it might be fruitful to analyze that Act and see how we might re-orient it or improve it specifically.

Earl Sullaway: I think the closest I can come to responding to that question is in a general frame work that considering the nature of the bulk of the problems that we are aware or can conceive of that occur in this area they really do appear to be criminal violations to be more appropriately addressed by organizations with experience in criminal matters.

Commissioner Kassoy: Do you feel that the Commission that you represent is effective at the present time in enforcing the Ralph Act civil penalties?

Earl Sullaway: Our experience is extremely limited in the Department I represent. By the way, the Department and the Commission are two independent entities. The mechanism which the Commission has to levy remedies isn't even tested yet. We have a single accusation of discrimination which has come before the Commission and it is presently under consideration. From that, ultimately, I would conjecture that it is going to be subject to appeal. We are probably going to be able to get a little better reading on that.

Commissioner Kassoy: Would it be a fair deduction from your comments that the present tool provided for you by the law does not give you an effective method for enforcing the law.

Earl Sullaway: I don't think that they give victims much incentive to come to us. This is one of the major problems.

Commissioner Kassoy: When victims do come to you, do you feel that you have the tools and the personnel and the wherewithal to be of significant assistance.

Earl Sullaway: If what the victims are interested in is a civil remedy and if the individuals against who they are filing are not judgment proof, which is another problem mentioned in your questionnaire, I think our system is adequate for those circumstances.

Commissioner Kassoy: Would you have any suggestions for enhancement of your ability to make effective the Ralph Act as it relates to civil liabilities?

Earl Sullaway: Not at this point.

Commissioner Kassoy: Thank you.

Commissioner Yu: Thank you very much we appreciate your time.

Gene S. Mornell, Executive Director, LA County Commission on Human Relations

I am here to respond to your questionnaire and make recommendations that were discussed and approved by our commission just this past Monday. I think perhaps the easiest way for me to proceed would be to read quickly through our responses to your questions which you do not have copies of at the moment. I will leave a copy with you and discuss briefly the guidelines and definitions and then come to a few recommendations. I will just go down the questionnaire:

#1. No, it is not clear what responsibility if any law enforcement officers have to enforce the Ralph Civil Rights Act it is only used by the injured party to bring suit for violations in the civil courts.

#2. The Ralph Civil Rights Act is not being used more frequently because it is not terribly well understood even by law enforcement and far too few people are even aware of its existence.

#3. Yes, there should be criminal sanctions for violations of the Act. These violations are basically acts of terrorism based on race, religion, ethnicity and other factors and should be treated as such.

#4. The Ralph Civil Rights Act could be strengthened by amending it to include criminal sanctions. Defining criminal acts could be somewhat problematic and need careful wording.

#5. Judgment-proof defendants would be immune from the monetary sanctions which could be imposed under the Ralph Civil Rights Act, since they would be unable to pay the fines and damages specified if convicted.

Therefore, a judgment-proof person might be willing to take the rap in order to protect cohorts that could be financially damaged. Adding criminal penalties such as jail sentences could make this option less attractive and it could also make a potential perpetrator think twice before committing such a crime.

#6. Yes, the Attorney General should be given broader authority to bring civil rights actions under the Ralph Act. The AG should not only have the power to bring civil actions on behalf of victims but should also be empowered to bring criminal actions under this act, if criminal charges are not brought by the local district attorney.

#7. It would certainly be of assistance to local law enforcement to have new penal laws directed specifically at civil rights violations. Unless law enforcement officers are given the necessary tools to arrest perpetrators of racially and religiously motivated crimes they will not be effective in combatting such violations.

#8. The effect of providing for sentence enhancements where crimes are found to have been motivated by prejudice or bigotry is unknown. Currently statistics are not kept on the efficacy of sentence enhancement.

#9. Mandatory jail time may indeed act as a deterrent to the commission of racial, ethnic, and religious crimes. If it does not, then at least it serves to remove the culprits from the community for a certain time. This would ease victim fears and possibly prevent additional incidents. If this had been in existence in December 1983 when Klansmen, Nazis and Aryan Nation members burned a cross here in Los Angeles, perhaps four of those arrested - Silva, Evans, Bently and Tate - would not have been able to commit other crimes including murder, armed robbery, counterfeiting and assault during the ensuing year elsewhere in the United States.

#10. Yes, an amendment to the Act making it a criminal violation to conspire to violate the civil rights of a person would be very helpful. It would provide law enforcement officials with an additional resource.

#11. The main difficulty in prosecuting a conspiracy complaint probably would be first amendment restrictions. Care must be taken with the wording of the statute to avoid violations of person's first amendment rights while ensuring suitable punishment for those who engage in racially, religiously or ethnically motivated crimes.

#12. Most of the guidelines and definitions are workable and many are used by the Human Relations Commission in its monitoring of such crimes. There are however a few problems with example of reported crimes or incidents. Let me give you a few of those examples that we consider problematic. Sexual assault, for instance, would be counted only if race, religion or ethnicity were the sole motivating factor, as race and other sex crimes are generally assumed to have other motivations. Disturbing the peace would be counted only if accompanied by violent behavior; and symbolic gestures or acts would be counted only if directed at a specific target. We will give you copies of the definitions that we used and which have been developed in cooperation with law enforcement agencies in this area.

We have four recommendations:

- A. Passage of legislation criminalizing paramilitary activity in the state of California.
- B. Amendment to Penal Code Section 408, unlawful assembly, to include racially, religiously motivated crimes, such as cross burning, which are held to be acts of terrorism.
- C. Passage of legislation criminalizing violations of the Ralph Civil Rights Act which is presently only a civil crime.
- D. Passage of legislation mandating all law enforcement agencies in the state of California to keep statistics on racially, ethnically, and religiously motivated crimes.

Now those were the recommendations approved by our commission we have a couple of informal additions to them. For example, we feel that the Attorney General, perhaps the Commission, could encourage civil rights and ethnic organizations to collect data on racially and religiously motivated vandalism and violence. We have had great difficulty getting such groups to collect such data and at the same time such groups have criticized our reporting as being inadequate; we are in a double bind here.

Commissioner Yu: How would they have the resources, monetary and staff to collect this data?

Gene Mornell: Well we are only talking about making known their availability for victims to report problems to them and serve as a clearinghouse or a place to refer people elsewhere to human relations commissions to the Attorney General and /or to the DFEH for follow up on the incidents. But if, for example, the black community is telling us that we believe there are many more incidents than you report annually, then we believe it is necessary for the NAACP and the Urban League and the Black Agenda and other organizations to assist us in collecting such data. We are not sure that is the best way to do it, but we think that organizations concerned with such activity should be in the business of making known their desire to have such information more specifically and more carefully defined.

Commissioner Yu: So you think that in addition to the proposal that all law enforcement agencies collect the data that these community groups, based locally, also collect data?

Gene Mornell: I think that if law enforcement agencies were collecting it, it might negate the need to do this but until such time as we have such a law, and I am not sure just how quickly it is going to come about, then perhaps there should be encouragement of ethnic and civil rights organizations to do so. They may wish to do so on their own, simply making known the fact that this is an important problem in our community and that here is a source for recording such data and a source for referral. We don't know, we haven't been very successful with that aspect of it.

Commissioner Yu: Is it fair to say that your Commission believes that this type of violence has increased in recent years?

Gene Mornell: It has gone up and down but we still feel it remains a major problem in Los Angeles County.

Commissioner Yu: You mentioned you worked on these definitions with local law enforcement people, have you generally found cooperation by the local law enforcement agencies.

Gene Mornell: From some and not from others, which I prefer not to mention here.

Commissioner Yu: Without mentioning their name could you indicate what their resistance is.

Gene Mornell: Well I think there is a general resistance to sharing information; there is a financial and person-power burden in sharing information. We have found that those law enforcement agencies that have found our information useful are willing to share; those that are aware of our resources and what we are involved in -the services we provide- are more willing to share. There is some resistance on the part of some law enforcement agencies in some cases. They are simply not available; they are not aware what we are doing. I should mention maybe, in this connection that we were concerned that in the Department of Justice's data collection effort this year, there is a limited number of law enforcement agencies. It does not include the major law enforcement agencies in the Los Angeles area. It doesn't include the Los Angeles Police Department and the Los Angeles County Sheriff's Department and I think that without data collection by those agencies there is going to be a radically skewed result in the collection effort. No, as a matter of fact no large law enforcement agency in the State of California is included among them, and I believe it is eight that are involved with the DOJ collection effort. I think it is a serious problem in that data collection effort. Our Commissioners also wanted to make known to you our concern that the AG support AB 185 type legislation which puts the state legislature, and hopefully the governor, in support of the principal of human relations commissions throughout the State. Because if there were more human relations commissions there would be more resources for dealing with this problem whether it be data collection or providing service to victims or educational programs to reduce the problem. I think there is one other recommendation that we might make and I do not know about the politics of this but it is that the result of your commissions work might be to recommend to the Governor a permanent Commission on Racial, Ethnic, Religious and Minority Violence.

Commissioner Yu: In connection with the human relations commission Bill AB 185 you mentioned, who is the sponsor of that?

Gene Mornell: It has been introduced several times. Monsignor Barry would know more about it than I would.

MSGR. Barry: Gwen Moore.

Gene Mornell: The last bill was introduced by Gwen Moore. There is no current bill in the current session of the legislature.

Diane Yu: With respect to paramilitary activity, your first recommendation, have you worked up any kind of definition of what your commission considers to be paramilitary activity?

Gene Mornell: We have not.

Commissioner Kassoy: You have clearly come down very strongly in favor of criminal sanctions and penalties and conspiracy tools in connection with this whole area. You also commented, though, in response to question 7, that new penal laws directed specifically in violations of civil rights etc. may not be of great assistance to law enforcement authorities if we don't give them the tools, and I wonder if you could expand a little bit more if I did characterize your comment correctly. Could you expand a little bit more as to specifically what tools you had in mind.

Gene Mornell: Well I think the first tool would be to make certain acts based on race, religion, and so forth criminal violations. Take a variety of penal code violations, whether it be unlawful assembly, disturbing the peace, assault, malicious mischief, vandalism, and add stronger penalties. Add stronger penalties to those penal code violations if race or religion is involved; or strengthening the Ralph Civil Rights Act by taking those various penal code sections and say that if they are involved with racial or religious factors then, under the Ralph Civil Rights Act, there are certain criminal penalties that would fall within the jurisdiction of law enforcement agencies. I don't think we are getting into the area of resources or anything like that.

Commissioner Kassoy: I take it then that you were not referring to a lack of resources by law enforcement authorities to deal with the enforcement problem once these laws were enacted.

Gene Mornell: We didn't take a position and we didn't go into that one way or another. The problem at the present time is that many of these acts are borderline in terms of law enforcement perceptions of whether a crime has been committed and I don't think there is any law enforcement agency that has said they are not going to enforce the criminal laws.

Commissioner Kassoy: In your work have you encountered the dilemma by law enforcement authority of the public setting high priorities on so many different areas at one time that they can't respond adequately to all of them.

Gene Mornell: Yes, but that is an unending argument. I don't think that there is any doubt that violent crimes against persons are the highest priority. I don't think there is any doubt about that among law enforcement agencies. Now that does not mean that they have the resources to adequately serve every community or pursue all criminal activity, and they obviously set priorities, but I think the first step towards setting priorities in this area would be to criminalize the Ralph Act and perhaps attach racial and religious crimes to various other penal code sections.

Commissioner Yu: Present law, to my understanding, does provide for sentence enhancements for certain racially, or ethnically motivated crimes but it may be a recommendation that we could make with respect to having Ralph type violations included in a broader category than the current statute allows. Perhaps it may serve as a basis for a judge to add additional sentence time to a criminal defendant. Thank you very much, we appreciate your coming.

David Leher, Western States Counsel, Anti-Defamation League

The Anti-Defamation League is the leading Jewish human rights agency. The League itself is part of B'nai B'rith, the oldest and largest Jewish fraternal order in the United States, founded in 1843.

We have been asked to present our views on the proposed Racial, Ethnic and Religious Crimes Project. The ADL has had experience in collecting statistics concerning anti-Semitic vandalisms and other transgressions motivated by religious prejudice. We carry out an annual audit of anti-Semitic incidents (Attachment C). We have been conducting this annual audit for a number of years. One of my duties is supervising the compilation of these audits in the West.

We support the concept of the proposed data collection system. We think the idea of a statewide data bank concerning crimes apparently committed as the result of racial, religious or ethnic prejudice is a good idea.

Because of our experience in conducting our annual audit, however, we feel we should outline briefly some of the problems involved in compiling statistics about racial, religious and ethnically-motivated crimes.

1. First and foremost is the problem of establishing bias as the motivating factor in an offense. For example, a synagogue is vandalized, an electric typewriter is stolen and cash is missing from the synagogue office. ADL does not include such a crime in its audit as a religiously-motivated offense merely because it took place at a synagogue. The same crime, however, would be considered as motivated by bias if the synagogue or the synagogue office were smeared with swastikas, or anti-Semitic epithets, or other clear evidence of anti-Semitism.

Another example: A Jewish cemetery is vandalized on a certain night and 50 gravestones are overturned while others are daubed with swastikas. We would count that as an anti-Semitic cemetery desecration. But if the same cemetery were vandalized but without swastika daubings, and on the same night, or the next night, a nearby Roman Catholic or Protestant cemetery were vandalized, we would not count the vandalism at the Jewish cemetery as necessarily motivated by anti-Semitism.

2. Second, is the problem of gathering accurate information. Except in New York City, where the police department has established a Bias Crime Unit, and in New York's Nassau and Suffolk Counties on Long Island where similar units have been established, local police departments do not generally maintain statistics about crimes deemed to be motivated by racial, religious or ethnic prejudice.

3. Our audits have shown that the overwhelming majority of those arrested for bias crimes -- more than 80% for a number of years -- have been aged 20 or under, mostly teenagers and juveniles. Some police departments do not keep records of offenses by young people as criminal offenses; this tends to complicate the gathering of accurate statistics about crimes motivated by racial, religious or ethnic prejudice.

4. Our audits, based on reports gathered by our 30 regional offices around the country and compiled by our national office research staff, are as complete and accurate as we can make them. But they cannot be viewed as "scientific surveys" because, of course, they do not catch every episode; many anti-Semitic offenses are simply not reported either to local law enforcement agencies, or to ADL regional offices around the country.

In short, the concept of a nationwide and statewide system of reporting crimes motivated by racial, religious or ethnic prejudice is one that we support but we are drawing attention to some of the logistical and judgmental problems that appear to us to be involved in developing such a system.

Some other states, one of which is Maryland, have adopted legislation that provides for record keeping of bias crimes, but there is considerable difference between the usual crimes -- murder, assault, rape and the like -- and crimes motivated by racial, religious and ethnic prejudice, because many of the latter involve far more subjective judgment.

To summarize: We support the concept embodied in the proposals but we draw attention to the need to focus on the logistical and procedural problems involved in establishing such a system and putting it into place on a permanent basis.

One of the problems dealing specifically with the recommendations and the criteria set forth, is the suggestion that if there is a victim from one of the protected classes the assumption would be that there is no other motivation; that it be assumed to be a bias crime. I think that may well be an assumption that is erroneous and would probably skew the statistics since you can't find any other reason to assume that is the reason. In our view, together with the Human Relations Commission with whom we have worked very closely for several years in gathering this data, is that the unique clear evidence of some bias, barring any other evidence of motivation as the motive for the act of vandalism, I think is erroneous with regards to the specific questions posed. I can only echo each and every one of the responses of Gene Mornell. I think between our agency and their agency we have probably done the large majority of the work of gathering statistics in Southern California and our experience parallels theirs in terms of what kinds of improvements could be made in the law to try and dissuade the potential vandal.

In particular I could speak to the effect of greater penalties. We have noted in California a marked decline in Anti-Semitic vandalism over the past three years and I think it is due in large measure to two factors; one is increased penalties as a result of both the Levine bill, when he was an assemblyman, which increased penalties for vandalism racially or religiously motivated; and Assemblyman's Gray Davis' bill which increased the penalties even further. I think the notoriety in which those amendments were accorded has an important effect at dissuading potential vandals from going out at 2 or 3 in the morning daubing swastikas, other graffiti, on religious institutions. I think the second major factor, in addition to the increased penalties, is the fact that law enforcement has, I think, taken a far more serious attitude towards these kinds of crimes then was the case several years ago. The vandal who is caught isn't assigned to write an essay on brotherhood or to mow somebody's lawn. He faces a very real potential of serving some time in jail. I think that potential plus the attitude of law enforcement taking these crimes much more seriously has acted as a damper on potential vandals. With that as a background I think increasing the penalties for Ralph Act violations if given sufficient notoriety and attention by the press would undoubtedly have a salutary effect on the problem that we are addressing.

Commissioner Yu: What do you do with your statistics once they have been gathered?

David Lehrer: These statistics in addition to sharing them with agencies like the County Human Relations Commission, are shared with legislatures around the country when we think it would be positive to try and change the law or amend the law to increase penalties. And we have our vandalism bill that has been adopted in several states, increasing the penalties. In addition, it is shared with the media and I think the attention that is given to the fact that an agency like the ADL or the County Human Relations Commission gather these statistics has a salutary impact on the community at large to let people know that these kinds of crimes are taken seriously; that mowing the lawn is not going to be the penalty for being caught daubing swastikas on religious institutions, they may well serve time. I think that has really had a positive impact. In addition, one thing that we have done, which I think has also had some effect, has been sponsoring seminars around the country for religious institutions to advise them on the kinds of steps they can take, many of them not very expensive, to make themselves less attractive targets for vandals. Now that is on an institutional basis; it doesn't speak to the kinds of individualized crimes we are talking about. But there is no doubt that if an institution is well lit, if the shrubbery is trimmed, if there are people around, or it looks like people care about what happens, they are less vulnerable. I think the most dramatic example is right here in Los Angeles when the Temple City synagogue was bombed, I guess about 4 years ago now, an arson - an arson of nearly \$200,000 damage. The fact is that the culprits who committed that act had gone to another synagogue first. But it was too well lit there, too many people around it looked like they couldn't get away with it there. So they drove on to find a more vulnerable target. I think if the targets are hardened a little bit, if there is some maintenance and some lighting, someone nearby to look like he cares, it is less likely be a target.

Commissioner Yu: Could you relate what your basic source is in the gathering of statistics?

David Lehrer: Our statistics are as systematic as we can make it, but we are constrained by certain realities. People have to come to us to provide the information. But I think it is by virtue of the fact that we have been gathering this data for many years, and on a more systematic basis for the past 7 or 8 years. We are well known. The fact that our national survey, does get a good deal of attention when it is published each January, nationwide, at least within the Jewish community which are the victims of the anti-Semitic vandalism that we have some expertise in. We are fairly well known and the chances are if there is an act of vandalism, of some sort, threats, intimidation or harassment, that incident will be reported to us. But we don't claim to be definitive in this area, but we are the best that anybody has right now.

Commissioner Yu: You seem to feel that current laws with respect to protecting religious property are adequate at the time. Is that correct?

David Lehrer: Well I think short of making it a capital offense the penalties are severe and I think the message has been sent out that society views these kinds of acts seriously and that the penalty will be so severe that someone faces the risk of felony, of a felony conviction, for engaging in an act of vandalism directed at the religious institution with the proper criminal motivation and I think that message is clear. You know given the fact that the number of incidents has declined over the past several years, I don't see any need; if it doesn't squeak we don't have to fix it. I think it is working well.

Commissioner Yu: Do you feel the same general level of confidence about the protections of personal liberties in personal rights or protection?

David Lehrer: No, I think there is a serious problem. I am not quite sure what would be the most effective way to deal with it but I can say from our vantage point we are a recipient of numerous complaints every day. People involved in neighborhood disputes or whatever, individual acts of intimidation, anti-Semitic harassment or whatever. They are very difficult to deal with. In fact, they are, in many instances, impossible to deal with. We have found that in some instances the only solution, especially in a neighbor dispute, is for one of the parties to move and it is usually the victim who has to move because the police are not going to set up a 24 hour watch; they can go and get an injunction but nobody is going to be there to enforce it all day long and the kind of petty harassment, the kind of intimidation that occurs in these kinds of instances, are very difficult if not impossible to deal with. The fact that the Ralph Act offers some kind of remedy is encouraging but then again it is not very widely known. The fact is that in many instances people do not have the financial wherewithal to go and hire a lawyer and go and take this kind of action. If I understand the Ralph Act correctly the Attorney General is only empowered when there is a "pattern and practice" of more widely occurring incidents or series of incidents. So that is the problem and one perhaps the power of the Attorney General to involve himself, or local district attorneys, or city attorneys, where there are individualized acts and there is necessarily a pattern and practice would be helpful because dealing with particular

instances, especially the neighbor kind of dispute, where it degenerates at the level of anti-Semitic or racial epithets, windows are broken, garbage is dumped, you name it, it has happened, usually the victim has no viable recourse to try and solve the problem other than locking themselves in their home and acting like it is not happening.

Commissioner Kassoy: I would like to first comment that I have seen your annual compilations for the last several years and I think the Anti-Defamation League should be complimented and congratulated for the work it has done in that area. I was interested in your comments on the Levine and Davis legislation. I wonder if for those of us who are not entirely familiar with it, if you would explain a little bit more fully than you did as to what this legislation does and then, in addition, if you would share with us some of your own observations as to the first amendment issues that are raised by legislation such as that.

David Lehrer: Well the original Levine Bill as I recall(I haven't looked at it for a while) increased the penalties specifically for vandalism directed at religious institutions where there was evidence of animus based on race, religion, or ethnicity. The problem is trying to distinguish between vandalism directed in the form of a kid daubing a club logo on a wall with a can of spray paint and when the wall is no longer the wall on a building project, but it becomes a wall on a church or synagogue. Here you run into the first amendment problem: did his state of mind change or was he simply sloppy and didn't know that the wall had changed? But as I recall the Levine Bill specifically speaks to the intent of the perpetrator and the crime. The fact that he is just walking down the street and daubing from a construction project to a religious institution doesn't change the nature of penalty. There has to be evidence of animus on the part of the culprit, then the penalty logically increases. We didn't see a first amendment problem. I still don't see one there in so far as you need animus of the individual. Society, I think has the right and ought to make clear its policy against that, that it is a different kind of crime than daubing a logo on a wall surrounding a construction project, that there is a particular abhorrence society sees in having religious institutions intimidated through the daubing of a swastika or other evidence of hate. As I recall the Davis bill simply increased the penalties on the Levine Bill which was introduced a year or two before.

Commissioner Kassoy: Just for the sake of underscoring some of the sensitivities here on first amendment issues, if we conjured up a situation where a major religious institution had large portfolios of stock, some of which were in companies that were doing business in South Africa and if there was a major demonstration in front of that institution urging divestment or withholding an investment and if vandalism was perpetrated against the institution, in that situation how do you think the Levine legislation would be applied?

David Lehrer: I am not back in law school. I haven't looked at the statute for a while, but there was a view towards the state of mind of the perpetrator; and there was a clear distinction drawn between the sloppy vandal, who as he was walking down the street spray painting walls happened to go inadvertently from the wall on a construction project to the wall of a

religious institution, there was a distinction drawn between him because he was lacking the mens rea of racial hate and religious animosity and that of the vandals who daubed the swastika where there is an intent to intimidate and an attempt to terrorize, if you will, and there was a clear distinction drawn between those two individuals. I think society would logically want to dissuade one more persuasively and they would want to penalize one more than the other. In this case, where there is an attempt to intimidate or terrorize a particular group because of their religious beliefs notwithstanding what may be a well intentioned motive. I could see it would be a tough case, but the judge may find that there is a strong argument to say that you don't generalize your anger and try to intimidate a group even though your motive may be a more noble one.

Commissioner Kassoy: Thank you.

Kent Wong, Staff Attorney, Asian Pacific American Legal Center

The Asian Pacific American Legal Center is the only one of its kind to serve close to one million Asian Pacific Americans in Southern California. We provide direct legal services as well as an advocacy group for the Asian Pacific community. Of the close to one million Asian Pacific Americans in California, 2 or 3 are immigrants. The large influx of Asian immigrants is causing the disparity between immigrants and native born to grow. Within Los Angeles and Orange Counties there is the highest concentration of Koreans, Japanese, Filipinos, Southeast Asians, and Pacific Islanders in the country and one of the highest concentrations of Chinese in the country. Immigrants and refugees are often special targets for racially motivated attacks and are often least aware of their rights and remedies.

The Asian American Pacific Legal Center recently initiated a project to study the rise of racially motivated violence against the Asian Pacific community and to explore constructive measures to deal with this problem. So we have particular concerns regarding this deficiency of existing legislation such as the Ralph Civil Rights Act. Before sharing with you some of the results of other projects which we have gathered over the past few months, I wanted to briefly provide some perspective regarding the concerns of the Asian Pacific community regarding the rise of racially motivated violence and our interest in exploring all legal rights and remedies available.

There is a pervasive myth that Asian Americans have been able to completely assimilate into the mainstream, that our communities are virtually free from poverty and discrimination. The media continually promotes this perception referring to Asians as the "model minority." However, reality continues to contradict this popular myth. Asian Pacific Americans constitute one of the fastest growing populations in California as well as across the country. The recent rise in Asian Pacific immigrants and refugees has brought with it a whole new dimension of cultural and language barriers which prevents Asian Pacifics from emerging from marginal status. With this recent rise in Asian immigration is also a growing anti-Asian and anti-immigrant sentiment that has on occasion taken the form of racially motivated violence. The recent wave of racially motivated violence against Asian Americans can only be fully understood if placed in historic context.

If we look at the history of Asians in this country we see a clear pattern that emerges whereby historically Asian immigration has been encouraged to supply a source of cheap labor in times of need. Yet when there are economic down turns, when there is a need to find blame for the social and economic problems in this country, Asians have been conveniently targeted. In early Los Angeles history, a few hundred yards from where we are gathered right here today, many Chinese were lynched by white vigilantes. World War II witnessed a new tide of anti-Asian hysteria where Japanese Americans were persecuted and stripped of their homes, jobs and possessions and herded away like cattle into concentration camps. Today we are witnessing a resurgence of anti-Asian sentiment manifested by growing intolerance, beatings and on occasion murder. We see the rise of "English Only" rules by declarations of English as the official language. We see the opposition to the bilingual ballot and the list goes on and on. The rise in racially motivated violence targeting Asian Americans is a national phenomena. The 1982 brutal murder of Vincent Chinn in Detroit, Michigan at the hands of two unemployed caucasian auto workers who mistook Chinn for a Japanese is a tragic example of this new tide of racial violence. As many of you know his two murderers were sentenced to 3 years probation and fined \$3,000 each. In Davis, California a 17 year old Vietnamese high school student was stabbed to death by a white class mate in a racially motivated killing in 1983. This last year, a memorial marker in memory of the slain student at Davis High School was defaced with swastikas and the words "death to gooks." Also in 1983, a 47 year old Vietnamese woman was shot and killed by an unknown assassin while she was in her home in Canoga Park following complaints by caucasian neighbors who were unhappy at the presence of the Vietnamese extended family. In Monterey Park in Los Angeles County, racist signs and bumper stickers have appeared, including the sign "will the last American to leave Monterey Park please bring the flag," in protest to a rise in Asian immigration. Last June a 17 year old Chinese student in San Marino was beaten up by white students in a confrontation that began with the yelling of racist slurs. It was the third race related school incident of fights between Whites and Chinese students that had been reported that year. Last November a 13 year old Korean girl was abducted at knife point in a parking lot at Walnut High School by a caucasian man and sexually molested. He referred to her as a "Chinese" and told her not to come back to school. Other incidents of racial tension were reported to our Legal Center from Southeast Asians in Orange County, from Koreans in South Central Los Angeles and from Vietnamese in Alhambra.

But now that we have provided some insight into the problem what do we see as a solution? Unfortunately there are no easy answers. The weakness in the approach to racial violence often involves a situation where we are responding or reacting after the fact. Currently at the Asian Pacific American Legal Center we are exploring methods of improving racial harmony and understanding, and eliminating the ignorance and prejudice that provide the conditions for racially motivated violence. Our approach must be comprehensive. We need a stronger multicultural curriculum in the schools to promote the experiences and the contributions of Asians and other minorities who have built this country. We need more favorable depictions of Asians in the media. Unfortunately, these actors and actresses are frequently forced to accept roles as gangsters, prostitutes, servants and other demeaning roles. This perpetuates the stereotypes of Asians as somewhat less than human. In addition, there must be the legal response.

We need to educate the community about the legal resources that are available to counteract racially motivated attacks. One of the most important factors is the necessity to break the fear factor, the sense of hopelessness and frustration that often characterize victims of racial attacks. The parents of the Asian students in San Marino High School who I discussed earlier responded to the racial attacks by moving their families out of the community. This is an unfortunate response by victims of racism with no understanding of other recourse. We are happy to see more information and discussion being promoted with regards to existing legislation such as the Ralph Civil Rights Act. The dialogue and communication witnessed today, itself, is a positive step in recognizing the problem and collectively discussing constructive measures to deal with the situation.

There are basically three main areas of concern with regards to the sufficiency of existing legislation which I would like to discuss today. The first is the lack of knowledge especially on the part of Asian Pacific immigrants and refugees. In that Asian Pacific immigrants and refugees are the most frequent targets of racially motivated attack and the least capable of defending themselves, it is imperative that the resources be made available to them in a language that they can understand. Unfortunately very few resources, if any, regarding potential avenues of responding to racially motivated violence are available in any Asian languages.

Secondly, we have certain questions about the feasibility of enforcement of the Ralph Civil Rights Act. Although we clearly support the intent, under the terms of the Ralph Civil Rights Act, one of the possible civil remedies involves up to \$10,000 in penalties. Does this mean that the individual must be wealthy in order to be taken to court? Many of the perpetrators of racial violence may be judgment proof; for example, high school youth. What is the civil recourse and the civil remedy available in such a situation? Would bringing a suit into civil court be worthwhile for the plaintiff? Is injunctive relief available? Court actions as you are all well aware are very costly and lengthy. What assistance would be available to victims of racial violence?

The third main area of concern involves the question of police cooperation. Have the police departments been adequately notified about existing legislation, in particular the Ralph Civil Rights Act? Our concern involves a lack of accurate accounting within these police departments. In our direct experience with even the Los Angeles Police Department they seem to think that there is no problem regarding racially motivated violence against Asian Americans. Often times when you ask them specifically about instances, unless it is clearly documented, they will not even list it as an act of racially motivated violence. For example, this 47 year old woman who was shot in her kitchen at Canoga Park, I don't believe that it is even listed as a racially motivated attack, because the assailant was never found. Yet the facts of the case clearly showed that the killing was the end result of a long series of outstanding problems between this Vietnamese family and the caucasian neighbors.

In conclusion, the Asian Pacific American Legal Center is very interested in pursuing collective efforts and combating racially motivated

violence. As I mentioned, today represents a good step in promoting dialogue, discussion and a greater awareness and understanding of the problem so that together we can begin to explore constructive solutions. Thank You.

Commissioner Yu: Thank you very much for your remarks. I wish we had a group like yours up in Northern California. I think that we could certainly use the background and energy in terms of combating the problems up there. In connection with the data collection which apparently your organization does, are there any particular means of collecting the data that you could relay to us? Or is it just the victims telling you?

Kent Wong: In part it has been the victims. We have a monitoring system where we are tracking all of the newspaper accounts of racial violence and tension. When we learn of them, we directly attempt to contact the victims to offer any assistance that we can provide. We have a very good network of support from different Asian American community organizations and churches that would be perhaps the first line of defense. If a victim of racial violence would want to contact someone the first avenue would often times be either a community social service agency or a church. Unfortunately Asians would rarely go to the police in a situation of racially motivated violence. There is a certain mistrust of the local police.

Commissioner Yu: Both you and Mr. Lehrer, who preceeded you, indicate that the press coverage is pretty important. Do you develop many press contacts?

Kent Wong: We have extensive contacts through the Asian press throughout Southern California and we had help to sensitize the Asian press specifically regarding the concerns in relation to racially motivated violence. So they have been very supportive in funneling information to our legal center.

Commissioner Yu: And does your organization have any position with respect to adding criminal penalties to the Ralph Civil Rights Act?

Kent Wong: We haven't really explored that and we haven't had a full discussion among our staff. The main thing is that no one knows that it even exists. From my understanding the Department of Fair Employment and Housing does have jurisdiction to investigate Ralph Civil Rights Act complaints. But to my knowledge there has been less than a handful that have even been filed through the DFEH so regardless of whether there are civil remedies or criminal penalties I think the bottom line is that we do need adequate announcement and information disseminated to our communities and especially in languages that they can understand. I want to make this offer today to the Commission that the Legal Center is more than happy to assist in the translations of those materials. Currently on staff we have the bilingual capabilities of Chinese, Japanese, Korean. We have assistants who volunteer at the Legal Center who speak Vietnamese, Cambodian and some other Pacific Islander languages.

Commissioner Yu: On behalf of the Commission that is an offer we can't refuse. Thank you very much that would be great. I think the Education and Community Relations Subcommittee of our Commission is looking into the

promulgation of some kind of handbook or brochure or newsletter or something that can go out to make people aware of what their rights and remedies are and we did encounter difficulty because of language barriers from many of the communities. So we very heartily welcome your offer.

Kent Wong: We would also be happy to assist with the media. As I mentioned we do have very good ties with most of the Asian press throughout Southern California. If you would send us the information we would be happy to disseminate it throughout the Asian press.

Commissioner Yu: Should we be in touch with you or the Coordinator of the Legal Center or both of you.

Kent Wong: Either would be fine.

Commissioner Kasoy: You mentioned earlier the difficulty of the language barrier problems and interfacing with law enforcement and other governmental authorities and agencies. I wondered if you had any specific recommendation on the subject of language interpretation, interpreters and what have you that could assist that interfacing with law enforcement authorities and other governmental authorities?

Kent Wong: I think the bottom line is that there has to be much more tolerance and much more compassion towards the recent immigrants and refugees. I think the trend is quite the contrary: the "English Only" rulings, the attempt to block the bilingual ballot and the "English as the official language" types of measures. These are really contributing to the isolation of the Asian Pacific community; specifically immigrants and refugees. I think any attempts by different agencies would go unrewarded. I have had many battles with a variety of state agencies, including the the Department of Fair Employment and Housing, which to this day are unwilling to provide any Asian language materials, and I find that, personally, to be an insult to the Asian community. Here is the resource that is suppose to be combatting discrimination and assisting under the Ralph Civil Rights Act and yet they are unwilling to provide translated materials. So I think that is a serious problem that we should look into.

Commissioner Kasoy: Specifically, in these various agencies and law enforcement bodies, have you seen efforts to furnish interpreters on the staff of these various agencies? If not, is it possible through an organization such as yours that interpreters be provided?

Kent Wong: We would be more than happy to assist any agency in finding volunteer translators. I know for a fact that when we assist a client one of our staff members accompanies the client so that the process off attaining government assistance and filing a complaint, or of blocking an eviction, is thereby de-mystified. In this manner, they are able to obtain the support of someone who speaks their own language; I think that kind of support is very important.

Commissioner Kasoy: Do governmental agencies generally know that you are a resource available to furnish interpreters to them if they need them?

Kent Wong: I am not saying that we will furnish the interpreters ourselves. I am saying that we can aid them in getting in touch with people that can aid in this regard. I don't think the problem is lack of resources, they are out in the community. In Los Angeles also there is a huge network that specifically serves the Asian community, but very few government agencies take the time to contact them and see what resources they have available. But we are more than happy to assist if people wish to contact our legal center.

Commissioner Kassoy: Thank You!

Commissioner Yu: We appreciate your help and we expect to be in touch with your group in the future because some of the issues you raised are close to what the Commission is concerned about. Thank you very much!

Monty Davis, Garden Grove Police Department

Chief of Police Frank Kessler would like to send his apologies to the Commission but I am afraid it took second place to some budgetary difficulties in a tough budgetary session. As a late substitute, I will try to respond to some of these questions. The first one I want to address is the separate reporting issue, the gathering of statistical information for violence perpetrated against minorities. The California Police Chiefs Association is against any form of separate gathering and forwarding of that information to the Attorney General or to other similar bodies. I was not privy to the discussions as to why, but I am sure one is cost. Any separate reporting system, regardless which system the agency uses, is costly. If it were to come about, there would have to be some cost considerations at some political level.

Secondly, in my own opinion, we tend to shy away from separate reporting for the simple fact that if we eliminate one, miss one, or get into some kind of judgment situation, we are often accused of trying to hide things. We have a lot of crime that is committed against minorities and we are never sure if discrimination motives are to blame or its something else. If that judgment call by the young officer at the scene says it is something else, particularly when its a sniper incident, when it is not accompanied by signs or other symbols to detect racial motivation, it is not classssified as racially motivated. Then we turn around and are often accused of covering up, which is not the case at all. So I think they shy away from it on those reasons.

On the criminalization, this is my personal opinion, most of the crimes that would occur against minorities and would fall under the Ralph Act, are already crimes. I don't think a separate penal code section making the Ralph Act a separate violation would be of much benefit. I do think, however, that a great benefit would be derived from getting the Ralph Act penal section of it in the court. Its one thing if I go to my neighbor's house and throw a rock through his window because his dog messed on my

lawn; it's a totally different thing if I go there and throw a rock through his window because he is "different." If that is established in the police report and in court, I think the appropriate place for enhancements are in sentencing, in the probation period, in the restitution consideration, or in the addition of more jail time. Most of the laws governing violence are sufficient now. There may be some I am not aware of, but they may be put under section 415 which is Disturbance of the Peace. Make it something more specific, but I just don't believe that a separate penal code section would be of much use.

A second consideration, is that so many of the racially motivated crimes are group kind of crimes. It may be two groups of people, something arising out of a demonstration. I hope the Commission understands that when the officers go out, they see a confrontation, they see hazard to themselves and to other people, they are really not taking notes of who is saying what or who is doing what. They are trying to get the matter settled. My concern again would be that these officers go out interested in getting the thing settled. It is the heat of a combat situation and I don't think they are going to be thinking, "Oh we've got a penal code section back here under the Ralph Act that we can do something." Let them handle the disturbance, get what ever facts they can in the disturbance and if in the court room it comes out that it is racially motivated, let the courts handle it.

The first question you had and the second question about the Ralph Act not being used, its been my experience in the community that most are not being used, most are not aware of it, the police are only aware of it vaguely, all they know is that we have laws somewhere prohibiting this kind of thing. I believe again, that the Chiefs Association through the Peace Officers Candidate Training has already included some alterations to change this vagueness in training centers throughout the state. As far as the police role, if any, since right now this is a civil violation, is to document it as we do for certain kinds of family situations and for certain types of neighborhood problems. The documentation would provide material for a follow up by the citizen later. That is really the extent of what I have to say unless you have specific questions.

Commissioner Kassoy: Leaving aside the distinction of criminalizing the Ralph Act and amending the penal code to provide for sentencing or penalty enhancement, where the crime was motivated by RERMV, wouldn't that still require the police officer to play an additional role in the investigation, than he would otherwise have played due to the necessity of gathering evidence that would demonstrate the basis for penalty enhancement? In other words, it does not seem to me that one can simply catch the criminal, turn him over to the courts, and if it comes out that it was motivated by bigotry, then there will be sentence enhancement. Does it not also require that the police officer in the investigatory phase also gather evidence on motivation just as they would do in investigating any other number of crimes?

Monty Davis: Most certainly. If I gave the impression that we are not going to record it, and let it come out in the trial if it comes out, then I miscommunicated. Any motivation would be included in the police report. What I am concerned about is a separate law that is brought out at the trial, that is the time to bring the Ralph Act into it.

Commissioner Kassoy: You would agree then, that it would not be placing an undue burden on law enforcement, for law enforcement to be sensitized to the motivational issues that would have to be part of the investigation of the crime that could ultimately lead to sentence enhancement for the commission of that crime?

Monty Davis: Yes, sir I agree.

Commissioner Yu: I want to thank you very much for your presentation and your willingness to come in. The Commission's regards to the Chief.

John Philips, Deputy City Attorney, Los Angeles

Good Morning, I was hoping to address some specific concerns we have with Penal Code 11411, which makes it either a felony or a misdemeanor to desecrate a religious symbol on the property of another person. Also, to express a concern for a central receiver of information which relates to RERMV and perhaps some funding for local prosecuting agencies to set up special units that can deal specifically with these crimes. It is my understanding that California is one of a majority of states which does not presently have prohibition against paramilitary training. As odd as this may seem, it has become a concern within the last few years. What I have brought with me today is a collection of video tapes. The background is that my connection with what the Commission is interested in goes back to late 1983 when I was assigned the prosecution of the KKK and also Nazi Party members and members of Aryan Nations who had staged a cross burning here in Los Angeles. 15 arrests were made that night. But we struggled through the proceedings; we were unable to file Penal Code Section 11411 because the desecration had occurred on property rented by the Klan. This is their pattern. We, instead, filed a long series of misdemeanor charges. We have presently 96 pending charges against 13 remaining defendants. The charges include unlawful assembly, conspiracy to commit certain fire code violations, and also illegal weapon possessions, inciting to riot and a number of other counts. In the down time we have had since this case has been on appeal, we conducted an investigation which literally went statewide. We had information from people who were previously associated with the Klan as informants, as police officers that had infiltrated the Klan, and private citizens who had denounced membership or who had initiated membership simply to gather information, whether as journalists or for other types of public interests concerns. We traveled to a total of 8 different counties where we had heard that there had been cross burnings. When I say cross burnings, I do not mean a 2 or 3 foot cross, placed in someone's yard by a couple of kids that had run away. I speak of crosses that are very demonstrative in nature; crosses that range in height between 15-40 feet: telephone poles wrapped in burlap, all types of large wood wrapped and soaked in gasoline surrounded by klansmen wearing robes and hoods. Weapon possessions are also very common.

At this point I would like to begin the video presentation. It will run about half an hour. It begins with film taken in San Luis Obispo County at Lopez Lake in November of 1979 before they had video tape, so it is in 8mm camera. Lopez Lake had the advantage from a law enforcement perspective of having just one entrance. So road blocks were constructed and searches conducted of all vehicles entering. People that were entering were told that they would have to submit to searches for any weapons they had brought with them or they would not be allowed to enter the Lake. In a tape you will be seeing where there was serious violence at John Landis Park, it could be entered from any area whatsoever. Perhaps it would be a good suggestion that people who are giving permits for any kind of Klan related demonstration that they choose a sight which is controllable from a law enforcement perspective. Some of the weapons the San Luis Obispo Sheriffs found inside of the vehicles were siezed and held for three day periods. Most had not been carried illegally so there were no arrests. (The Commission observed video tape of a cross burning). Permits were granted for the lighting of a cross in the San Bernadino area and again it was on the property of an active Klansmen. Although these were public in nature and it undoubtedly scared the people in the neighborhood, no crime was committed however because section 11411 of the Penal Code does not prohibit the desecration of a religious symbol in public view if it is on private property. (The Commission observed news footage of a Klan event and cross burning).

An important point must be made about the content of the speech and the conduct of the demonstration. While the content of the speech is constitutionally protected, the conduct, the type of weapon carrying, the kind of provocativeness that is exhibited by the demonstration should not be something that should be constitutionally protected. Moreover, you can see the impact on the people that live in the immediate area, it has a great impact on their lives. These tapes are from the San Bernardino area, and a permit was obtained for this particualr demonstration. You will notice from the number of torches that are being carried that it is a fairly widely attended cross burning that occurred. Again this was on private property, but very much in public view. (The Commissioner's viewed a cross burning staged in support of Tom Metzgers's congressional candidacy). In this situation, although it is apparent that fire violations are being committed, no arrests were made, and obviously no convictions.

One of our other concerns is in reference to a prohibition of paramilitary training and/or assemblies. I think that these kinds of assemblies are unlawful, especially like the one you saw in San Luis Obispo. The guns are not illegal, they are not concealable, but they may have been loaded and if they were that was illegal. However, there is no way of knowing unless searched at the outset. I might add that our position has evolved from trying to prosecute the case we presently have. It is my contention that when you combine illegal fires with weapon possessions, the atmosphere created is an unlawful assembly. We would like a penal code section like 11411 but with a modification to cover these "private property" cross burnings that are clearly in public view.

The seriousness of the situation is clear when one observes the extent of their organization. When they start buying compounds in such places as

Idaho and Arkansas where they are in confrontations with the FBI and State Troopers, you are dealing with serious people. I might add that a lot of credit should be given to Mike ----- for the exposure he gave to the organization in terms of bringing in Peter Lake, a journalist, who did a lot of the video taping and different demonstrations, who has since given the video tapes to me and my office. Mike has been extremely cooperative but is unfortunately housed in the Hall of Justice jail. He should be entitled to some kind of federal witness program but has been unable to get that from the federal Department of Justice. It would be nice if some pressure could be put on the US Attorney General to give him some kind of protection and assistance because he has continued to cooperate with law enforcement at every level in their investigation into these groups.

If I may recount what my point was in watching the video tapes: Penal Code Section 11411 makes it a crime to desecrate a religious symbol on the private property of another person; it does not address public desecration which may be on an individual's property or some public grounds. That penal code section must be modified. In the months following last July when we had some down time on our case and we began gathering evidence, when the FBI caught wind of the fact that these same individuals and their groups were involved in a series of armoured car robberies and bank robberies, shoot outs with Troopers, and the like, there has been a clear affirmation that something needs to be done. (There is a discussion of various individuals that have been involved with the Order). It is not just war games or survivalist preoccupations. Perhaps if there was some kind of prohibition of paramilitary training, they may not have the skills to engage the Troopers or the FBI as they have in recent years. That is all I have to say, are there any questions?

Marty Mercado: You mentioned that there is no centralized location for gathering this kind of information. I can't get into the details because I am not that familiar with them, but we do have a division in our Department of Law Enforcement, in BOCCI. Are you aware that they exist and that they gather this kind of information?

John Phillips: No, I was not.

Mercado: I will get back to you. We will follow up for you.

Commissioner Yu: Thank you for your video tape presentation for its ability to graphically represent the problem.

Commissioner Kasoy: In reference to your recommendation for the criminalization of paramilitary training, have your people at the City Attorney's Office done any drafting of legislation that would be beneficial in this regard?

John Phillips: No, this has not been done in our office or any other office I am aware of throughout this state.

Commissioner Kasoy: Are you aware of any work that has been done in this area?

John Philips: I have heard that 22 other states have legislation that prohibits paramilitary training. I would imagine in some instances paramilitary assemblies have also been prohibited and that would cover the cross burning and the weapons possessions that usually accompany those assemblies.

Commissioner Kassoy: Will you review again your point of modifying the penal code.

John Philips: To reiterate, Penal Code Section 11411 provides a felony to desecrate a religious symbol on the private property of another person. We would like to see that modified to prohibit desecration of religious symbols in public display.

Commissioner Yu: Then, public display is the critical factor?

John Philips: Yes.

Commissioner Yu: Do you have any comments of the Ralph Civil Rights Act.

John Philips: The only comment I would like to make is in relation to our office not having the funding to begin separate criminal prosecuting units. We do have several; a consumer division, housing enforcement section, and environmental, but we do not have the funding for a new unit. At the time I took the case dealing with the Klan, Nazi Party and Aryan Nation Members we had a unit called the Chronic Offenders Program which itself has since dried up. The main concern of our office is to go after the chronic offender. It would be great if there could be funding for a unit to deal solely with RERMV.

Commissioner Yu: Why did the Klan case go through the City Attorney's Office and not the DA's?

John Philips: It was originally presented to the DA and was referred to the City Attorney, apparently not seeing any counts of felony that would result in a state prison sentence.

Commissioner Yu: Thank you for your time.

Idalia P. Chestnut, President Emeritus, Harbor Human Relations Council

My name is Idalia Chestnut. I will speak to you for our organization as we have served in the Harbor Area attempting to solve Community problems that have produced varying degrees of violence.

We believe that our society is being torn asunder by violence which can and must be prevented. I hope that your hearing will produce some solutions that will be based on the underlying causes of violence. The fact is that the whole question of violence is a paradox. The paradox lies in the fact that the whole world is in a rush toward the annihilation of the human race. Nations of the world do not try to negotiate their differences. They engage in war which is the ultimate violence. Our government's attitude

toward the solution of the problems in Central America is a prime example of failure to recognize the cause of problems, and use force when negotiation and compromise would be the solution. We insist on supporting the Contras and not the Contadora Group.

But we must look at our local violence and what we can do about it. Our organization took the first step. The juveniles and the police were not getting along. Our solution worked. A group of local people including parents, grandparents, and juveniles calling themselves "Parents Who Care" mediated disputes. However, in spite of our reduction of violence by 20% in one year, our group became inactive. The work we were doing then is now largely the responsibility of a special police force which has the acronym of CRASH (Community Resources Against Street Hoodlums). Street hoodlums, indeed! Instead of CRASH, I recommend to you legislation creating groups like "Parents Who Care" in the whole State where there is so called "gang activity." Here is one humorous account of how we solved problems. The teens convened at Cabrillo Beach Park. They persisted in ignoring curfew when the park closed. Every night, there were arrests and possible beatings, and the situation grew worse. Parents Who Care called a meeting of the two sides. In a calm atmosphere, both the police and youngsters agreed to change. And this is the story of the next evening: The police car rolled up and stopped as usual. The officer emerged from the car, took his hat off and said, "Gentlemen, I regret to inform you that the park must close in 10 minutes. I urge you to leave, because if you don't I will have to make you. I will leave now and return in 10 minutes." Just as he entered the police car he asked, "was that courteous enough?" A hearty laugh was the response, and they left in the allotted 10 minutes.

We recommend laws creating counseling services modeled on the County Human Relations Commission. These should be local, adequately staffed, and funded. These trained workers would be responsible to mediate tensions that cause violence; e.g., among people of various racial, ethnic, religious and minority groups. In the 20 years that I have worked in these problem areas, I have become convinced that we should have laws geared toward prevention. Do not wait till violence occurs and then punish. Make laws that provide trained workers to guide communities to alleviate the reasons that underlie violence before it occurs.

I Congratulate the Attorney General for creating the Commission. He has taken the first step. He is studying the problem. Hopefully, he will be able to influence legislation that will keep violence to a minimum, while all of us work to improve the society by providing education, employment, food, shelter, health and recreation for our population. Thank You!

Commissioner Yu: Thank you Ms. Chestnut for your comments.

Richard Katsuda, Regional President, APAC

I am Richard Katsuda, Los Angeles Regional President of the Asian Pacific Advocates of California; I am not really prepared with any particular remarks. I had a chance to look at this material and I am not familiar with the Ralph Civil Rights Act. I did not know about the AG's RERMV Commission. What I can say is that the concept of the Commission is

very good. I have not had a chance to look at these questions, but I do feel there is a great need for the Commission's goals. It is a commendable concept. APAC is very interested in working with the Commission to implement any recommendations.

Commissioner Yu: Just a few questions in regards to APAC's potential role in Asian American rights and its role in the Commission are in order. Maybe we can take advantage of your presence even though you have not had a chance to better prepare a presentation. Does any of the work that APAC undertakes involve the physical protection of Asian Pacific Americans?

Richard Katsuda: Yes. The idea of the different types of violence has been a major concern. What we have been doing is a project to monitor the rising tide of Anti-Asian violence. We try to disseminate this information through the APAC Alert, our newsletter. So we have computerized much of the information that we have obtained either through ethnic newspapers throughout the country and come up with an overview of what the plight for Asian-Americans is throughout the country. I am sure you are aware that there is a project down in the LA area in this respect.

Commissioner Yu: Is this a long term or short term project.

Richard Katsuda: It is a long term project.

Commissioner Yu: What else is the APAC involved in beyond just collecting data?

Richard Katsuda: The organization has basically been involved in brainstorming and seeking the sources and roots of the violence. We have not yet come up with anything definitive. But as far as our scope goes we see ourselves as trying to maintain a good overview of what is going on in the Asian American Community as a whole and attempt to identify any linkages there might be and the sources of discord. One example might be some trade imbalance with Japan. That is a problem not only for Japanese but all those who look Japanese. It therefore affects the Asian community on a broad level. As for how best to combat that type of scapegoating we physically have tried to deal with it by acting as advocates for the Asian community in California. The concept of a Commission is certainly welcomed and we would like to come up with more clear cut input, but I really have not had a chance to think this through.

Commissioner Yu: John Saito will be available for consultation in Southern California and I could consult with anyone in the northern part of the state. We should be able to set up some kind of "linkage" as you say.

Commissioner Kasoy: Obviously the manner in which to deal with violence against Asian Pacific Americans is an issue that can be dealt with at numerous levels. The specific area that we have been trying to focus on is in the area of law enforcement and we would be very appreciative to hear your group's view in that area; hopefully in writing. How do you perceive law enforcement participating in "violence" perpetrated against the Asian American community motivated by bigotry? Whether, and how, law enforcement can deal with it? You will find that there has been legislation in

California for some years that purports to give individuals the right to sue perpetrators of violence motivated in that fashion. We are looking at that today and asking whether it has accomplished anything. Has it been effective, if not, how can it be enhanced? We begin to look beyond civil penalties to criminal penalties and criminal enhancements.

Richard Katsuda: Something off the top of my head is that one question for me that seems to be very crucial is what constitutes a RERMV crime? What I have heard from some people is that on the part of Law enforcement officials they are either reluctant or not wanting to deal with the question. In fact, taking it to the point that "it is hard to say." I have gotten a sense that that is a question that needs to be looked at.

Commissioner Yu: We are working on the definition, but all suggestions would be greatly appreciated. It is a difficult area. One other thing that I would like to point out is that we have had difficulty identifying the right people and organizations to get on our mailing list, please leave your phone and address and if you are aware of any other agencies that you feel share a concomitant interest with the Commission's goals, please let us know.

Richard Katsuda: Another point I would like to bring up is in reference to the names of certain businesses that perpetuate racial stereotypes and take on racial slurs as their names. A beauty salon in West Hollywood is called JAPSS, for example. The circumstances surrounding it is that the owners say that this acronym is simply and innocently the first letter of the names of the five co-owners. So they just happened to scramble it to get what is very offensive to the Asian community. John Saito started the ball rolling and contacted the Human Relations Commission. They looked into it and found that there were at least four other businesses with similar types of names: there is a JAP Tooling Co., and JAPS this and JAPS that. Apparently, it is hard to take legal action to get the owners to change the names. So we are trying to undergo a petition campaign. We feel that it is important that two of the co-owners are from Japan. This complicates the situation. This is a highly emotionally charged term for many American Japanese and they feel a great sense of insult to the store's name. We feel that an important element in this is to educate them as best as we can and sensitize them to the fact that, hey, for Japanese Americans this is a disgusting term. The public must be pleaded to. This term is an act of violence against Japanese Americans and to Asians as a whole.

Commissioner Yu: Thank You for coming and for the comments.

Diane Spencer, President of Black Womens Lawyers Association of Los Angeles

Ms. Spencer indicated that her group had not had an opportunity to review the questionnaire so had not prepared formal testimony. She indicated that to her knowledge no one has filed a case under the Ralph Act. She noted that one of the problems is that there is little knowledge of the Ralph Act. She indicated there should be some criminal sanctions and the ability to join in "pattern and practice" law suits. She said that if

there is pattern and practice it would be helpful to have criminal sanctions. She said that society in general is moving towards a position where they probably would not be as offended by these cases as they would have been several years ago; people seem to be more concerned about themselves. She said it was important for community groups to keep anecdotal data; people are not sophisticated enough to complain to human rights commissions, legislators, etc. but would give the information to a community group. She said it was important to get information to the public to get information to them about the Ralph Act and their rights and remedies.

There will be no further testimony. The hearing closed at 3:00 p.m. .

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ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY
VIOLENCE

PUBLIC HEARING
9:00 - 4:00 PM
THURSDAY, MAY 23, 1985
CITY COUNCIL CHAMBERS
LOS ANGELES, CALIF.

The Ralph Civil Rights Act of 1976 (Code Civ. Proc., §51.71) provides that "...all persons have the right to be free from any violence or intimidation by threat of violence, committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute...". It also provides civil remedies for a violation of the right, and authorizes the Attorney General to bring an action under appropriate circumstances. (Exhibit A)

In addressing the following questions, we would appreciate your candid views as to the effectiveness and enforceability of proposed laws, and request specific suggestions you might have in that regard:

1. Is it clear what responsibility law enforcement officers have to enforce the Ralph Civil Rights Act?
2. In your opinion, why is the Ralph Civil Rights Act not being used more frequently?
3. Should there be criminal sanctions for violation of the Ralph Act?
4. How could the Ralph Act be strengthened? What problems do you perceive in doing so?
5. How does the problem of judgement-proof defendants figure into the effectiveness of the Ralph Act? How might this be remedied?
6. Should the Attorney General be given more authority to bring civil rights actions under the Ralph Act? For example, should the AG be empowered to bring damage actions for violation of civil rights on behalf of victims? (Under the statute as presently written, the AG is empowered to bring injunctive actions only where a pattern and practice of civil rights violations is shown to exist.)
7. Would it be of any assistance to law enforcement to have new penal laws directed specifically at violations of civil rights?
8. What would be the effect or usefulness of providing for sentence enhancements where crimes are found to have been motivated by prejudice or bigotry?

9. What about mandatory jail time such as exists with drunk driving?
10. It is a criminal violation of federal law to conspire to violate the civil rights of a person. Would such an amendment to the Ralph Civil Rights Act be useful?
11. What would be the difficulties in prosecuting such a conspiracy complaint, and what should be included to minimize these difficulties?
12. Are the guidelines and definitions of RERMV crimes which are being proposed workable in your opinion? What problems do you perceive in the implementation of this definition?

Please feel free to make any additional comments you wish by attaching additional sheets.

Submitted by: _____

AGENCY/ORGANIZATION _____

PLEASE RETURN QUESTIONNAIRE TO: MARTY MERCADO, OFFICE OF THE ATTORNEY GENERAL, 1515 K STREET, SACRAMENTO, CA., 95814 WHETHER YOU PLAN TO TESTIFY IN PERSON OR NOT.

To the Attorney General's Commission on Racial, Ethnic, Religious and Minority Violence.

A response to a questionnaire on the application of the Ralph Civil Rights Act.

By the Department of Fair Employment and Housing (Department).

1. "Is it clear what responsibility law enforcement officers have to enforce the Ralph Civil Rights Act?"

It is not clear. A careful reading of the Act, and of Civil Code Section 52 which provides for some avenues of enforcement, does not reveal any defined role for law enforcement officers.

The Fair Employment and Housing Act (Act) provides that violations of the Ralph Act will be unfair practices. The Department is not a law enforcement agency in the traditional sense of employing peace officers.

2. "In your opinion why is the Ralph Civil Rights Act not being used more frequently?"

There are numerous inter-related reasons:

- o People view violence or the threat of violence as a criminal act. The Ralph Act is primarily a civil damage statute, although it does provide local District or City Attorneys or the Attorney General authority to bring a civil action requesting preventative relief. Subjecting a defendant to a restraining order places that defendant under the original contempt sanctions of the court. However, the Department is not aware of any rules promulgated by the local authorities regarding violations of the Ralph Act.
- o As a civil statute, the Ralph Act does not provide the kind of assistance victims desire. Victims typically want protection. This is not provided for.
- o To proceed under the Ralph Act, victims need to identify some perpetrator. Perpetrators are often not identifiable without investigations.
- o Even when identifiable, perpetrators are sometimes "judgment-proof," lacking visible assets. As a result, an action under the Ralph Act may be considered to be a fruitless involvement.
- o The Act was originally conceived of as a response to organized violence and threats by identifiable groups such as the Ku Klux Klan, Nazis etc. Current problems are more of un-organized individual acts and inter-group conflicts.

3. "Should there be criminal sanctions for violation of the Ralph Act?"

Probably. The conduct covered by the Act, is, after all, criminal in nature. The Act currently provides no deterrent to violence and little remedy.

4. "How should the Ralph Act be strengthened? What problems do you perceive in doing so?"

The Act could be strengthened by providing criminal sanctions for violation of its provisions, and by involving traditional law enforcement (the Attorney General's Office, District Attorneys, police and sheriffs) agencies in its enforcement. Local government agencies may be most effective in preventing Ralph Act violations, since these violations often rise out of local concerns.

Such a change would require legislation leading to an extensive statutory overhaul.

5. "How does the problem of judgment-proof defendants figure into the effectiveness of the Ralph Act? How might this be remedied?"

It is probably futile to file against the judgment-proof defendant unless a restraining order would be sufficient remedy for the complaint.

This could be remedied by providing for criminal penalties.

6. "Should the Attorney General be given more authority to bring civil rights actions under the Ralph Act? For example, should the Attorney General be empowered to bring damage actions for violation of civil rights on behalf of victims? (Under the statute as presently written, the Attorney General is empowered to bring injunctive actions only where a pattern and practice of civil rights violations is shown to exist)."

The Attorney General probably should be able to pursue damage actions and civil rights actions. Under the current circumstances, several agencies could be involved with one incident. Centralized authority would be desirable, especially if it could be complemented with the addition of criminal sanctions. The Attorney General has civil and criminal investigation units which more appropriately may investigate Ralph Act violations.

7. "Would it be of any assistance to law enforcement to have new penal laws directed specifically at violations of civil rights?"

This question is best responded to by agencies with experience in enforcing criminal statutes, such as local police and sheriffs, District Attorneys, and the Attorney General's Office. We support in principle the concept of establishing criminal sanctions to be enforced by local law enforcement agencies.

8. "What would be the effect or usefulness of providing for sentence enhancement where crimes are found to have been motivated by prejudice or bigotry?"

This question is best responded to by agencies with expertise in handling criminal matters. Has the "use a gun, go to jail" statute acted as a deterrent?"

9. "What about mandatory jail time such as exists with drunk driving?"

Same response as to number 8.

10. "It is a criminal violation of federal law to conspire to violate the civil rights of a person. Would such an amendment to the Ralph Civil Rights Act be useful?"

If violations of the Act were made misdemeanors, the amendment would be unnecessary. Conceivably, such an amendment could deter "mob" violence, however, the prevalent situations appear to involve intergroup violence at the local level.

If the Act was amended solely to provide criminal penalties for conspiracies to violate, it could provide an additional tool to enforce the Act against groups, if prosecuted by the local authorities.

11. "What would be the difficulties in prosecuting such a conspiracy complaint, and what should be included to minimize these difficulties?"

This question is best answered by agencies with experience in prosecuting criminal complaints.

12. "Are the guidelines and definitions of RERMV crimes which are being proposed workable in your opinion? What problems do you perceive in the implementation of this definition?"

The definitions and guidelines offered generally appear to be workable. The following areas are of concern:

o Perceived motivation

The general definition should probably read "...appears to be motivated, all or in part, by the victim's race, ethnicity, religion, sexual orientation or perceived race, ethnicity, religion or sexual orientation."

- o Incidents are limited to "solely because of protected group." Page A-2, B(1) question "Did the incident occur solely because of racial, ethnic, religious, or sexual differences...?" The "solely" limitation, if strictly construed, could restrict incidents where animus because of race, ethnic group, etc., was only one of the factors.

1983
AUDIT OF
ANTI-SEMITIC INCIDENTS



Anti-Defamation League of B'nai B'rith
823 United Nations Plaza, New York, NY 10017

1983 ANTI-DEFAMATION LEAGUE
AUDIT OF ANTI-SEMITIC INCIDENTS

January, 1984

Introduction

Anti-Semitic vandalism and other attacks against Jewish institutions, businesses and homes declined substantially during 1983 -- the second straight year in which such incidents showed a decline after sharp increases had been registered in 1979, 1980 and 1981.

The number of vandalism incidents reported by ADL offices around the country was 670 -- a decline of 19.2% compared with the 829 incidents reported during 1982. In 1982, the number of anti-Jewish vandalisms declined by 14.9% -- from 974 in 1981 to 829.

The decline of roughly one-third in the last two years follows increases in anti-Jewish vandalisms from 120 in 1979 to 377 in 1980 and then to 974 in 1981.

In a separate category of assaults against Jewish individuals and threats and harassments in which Jewish individuals or Jewish-owned properties were victims or targets, there was also a substantial decline amounting to 41.% -- from 593 in 1982 to 350 in 1983.

In 1983, as in recent years, the overwhelming majority of the incidents reported, based on those cases in which arrests were made, appeared to be the work of teenagers. Only rarely in recent years has anti-Semitic vandalism and similar activity been traceable to organized anti-Jewish hate groups.

It is noteworthy that while the ADL Annual Audit of Anti-Semitic Incidents provides a revealing yardstick for measuring an aspect of anti-Jewish hostility in the country, it is not the only such yardstick, nor is it necessarily the most

accurate barometer of anti-Semitism in the United States. This is true whether the numbers increase sharply, as they did in 1980 and 1981, or whether they decline as they have in 1982 and 1983.

Anti-Semitism in the U.S.

Anti-Semitism in the United States manifests itself in a variety of ways; anti-Jewish vandalism, including bombings, attempted bombings, arsons, attempted arsons and cemetery desecrations, are only a few such manifestations. There are others:

- The activities of anti-Jewish hate groups such as the Ku Klux Klans, the small neo-Nazi organizations, and various armed, paramilitary groups that train in clandestine camps around the country. These paramilitary, "survivalist" groups include the Posse Comitatus, the Aryan Nations, the Christian-Patriots Defense League, and The Covenant, the Sword and the Arm of the Lord.
- The anti-Semitic rhetoric of various representatives of the Arab states in the halls of the United Nations and resolutions equating Zionism with racism proposed or adopted by various UN bodies.
- The increasingly open anti-Semitism promoted by the Soviet Union as "anti-Zionism" and the activities of radical leftist organizations, such as the Communist Party USA and the Trotskyist Socialist Workers Party (SWP); the propaganda of the latter groups against Israel and Zionism attacks the most heartfelt concerns of the overwhelming majority of Jews both in the United States and around the world.
- Anti-Israel and anti-Zionist propaganda by pro-Arab and pro-PLO groups in the U.S. that often tends to mask hostility to Jews.

• The activities of organizations such as Liberty Lobby and the Institute for Historical Review which seek to deny the reality of the Nazi Holocaust in which 6,000,000 Jews were systematically exterminated as a matter of deliberate Nazi policy.

• The private prejudices and bigotries, which cannot be counted, that take place in executive suites, where discrimination against Jews is practiced, or in social clubs that bar Jews from membership.

Each of these manifestations of anti-Jewish hostility, and all of them viewed in the aggregate, represent threats of concern to the security of the Jewish community in the U.S. They reflect the policies of governments in some cases, the activities of organized anti-Jewish groups in others.

Serious Incidents

Serious incidents monitored by the ADL -- bombings, attempted bombings, arsons, attempted arsons and cemetery desecrations -- declined in the aggregate during 1983 as they had in 1982. There were three cases of arson in 1983 compared to seven in 1982 and 10 in 1981. Attempted arsons rose to 10 in 1983 from seven in 1982 and six in 1981. There were no bombings in 1983; there had been three in 1982 and four in 1981. There was one attempted bombing in 1983. There were none in 1982 and two in 1981. Cemetery desecrations declined to nine in 1983 from 15 in 1982 and 15, also, in 1981.

Widely Publicized Incidents

Several incidents that took place during 1983 -- at Yeshiva University in New York, at Bloomington, Indiana, and in West Hartford, Connecticut -- attracted considerable publicity and were perceived by many as motivated by anti-Semitism.

The Yeshiva incidents involved gunfire directed at a university building, at a nearby delicatessen frequented by Yeshiva students, and at a moving automobile occupied by students from Yeshiva University High School in which a woman in another car was killed. New York Police of the Anti-Bias Unit have not yet been able to establish anti-Semitism as the motivation in the Yeshiva incidents and had not, by year's end, made any arrests. In Bloomington, involving a purported arson at a Jewish center, authorities suspect that anti-Semitism was the motivation. In West Hartford, where fires and vandalism took place at Jewish houses of worship, at a rabbi's home, and at the residence of a Jewish state legislator, a Jewish teenager turned himself in to police many weeks after the episodes took place.

The 1983 Statistics

The 670 incidents of anti-Semitic vandalism took place in 32 states and the District of Columbia. This compared with 35 states and the District in 1982, 31 states and the District in 1981, and 28 states and the District in 1980.

Once again, as in recent years, New York, California and New Jersey were the states reporting the largest number of incidents -- New York with 215, California with 111, and New Jersey with 57. All three states showed declines in such incidents compared with 1982, New York by 57, California by 23, and New Jersey by 12.

The overall decline in the three states was 17.3% -- slightly lower than the 19.2% nationwide decline in 1983.

The Northeast, with 58% of the total number of anti-Semitic vandalisms, was once again the geographic section reporting the greatest number of such incidents. But the number of vandalism incidents reported in the Northeast declined by 23.6% in 1983 -- from 509 in 1982 to 389 in 1983.

The Southern states reported an 18.7% decline, from 91 in 1982 to 74 in 1983, and the Western states showed a 12.4% drop -- from 145 in 1982 to 127 in 1983.

The Midwestern states reported an 11.1% increase -- from 72 incidents in 1982 to 80 in 1983.

In the category of assaults, threats and harassments, the nationwide total dropped from 312 to 222 in the Northeast, a reduction of 28.8%. The South showed a decline of 20 -- from 46 in 1982 to 26 in 1983 for a reduction of 43.5%. In the Midwest, such incidents dropped from 130 to 63 -- a decline of 51.5%, while in the West, there was a reduction of 39 -- from 76 to 37 -- amounting to a 51.3% drop.

It was also clear that during 1983, the number of threats (in writing or by phone) and harassments in which Jewish institutions were the targets was sharply lower compared to 1982. The drop was 71.3% -- from 136 in 1982 to 39 in 1983. In such incidents involving individuals as targets or victims, the decline was 31.9% -- from 457 in 1982 to 311 in 1983.

Arrests

Police and law enforcement authorities arrested 115 persons in connection with 55 of the total number of incidents reported. Of the total, 69 persons were

arrested in connection with 26 incidents of anti-Semitic vandalism and 46 persons were arrested in connection with 29 incidents of assault, threat or anti-Semitic harassment.

Of the 115 persons arrested, 102 were teenagers — 88.7% of those arrested.

This conformed to past patterns which have consistently shown that more than 80% of those arrested have been teenagers.

State Legislation

In the last three years, 16 states have adopted various forms of stricter legislation aimed at curbing "ethnic intimidation," "ethnic terrorism," or "religious vandalism." These states are:

Arizona, California, Colorado, Florida, Idaho, Illinois, Indiana, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Virginia and Washington.

Action on similar legislation is pending in several other states.

Evaluation and Conclusion

The encouraging declines in anti-Semitic vandalism during 1982 and 1983, and the decline during 1983 in assaults, threats and harassments against Jews and Jewish-owned property may well be the result of a combination of counteractive measures and societal changes that have taken place in the American body politic during the last three years.

In this process, important elements of American society have been mobilized in a broad-based effort aimed at turning the tide of offenses and violations in which Jewish institutions and Jews themselves have been targets and victims.

In cooperation with police and other law enforcement agencies, ADL's offices around the country have carried out a sustained program of education emphasizing the need for stronger security measures at Jewish houses of worship and other Jewish institutions. ADL's offices have sponsored security conferences in various areas which have brought together leaders of Jewish institutions, religious leaders, educators and law enforcement officials to discuss problems of religiously oriented vandalism and the importance of stronger security measures, including the need for greater building security.

Other forms of "preventive medicine" have also been at work.

The media of public information have been paying greater attention to the problem of religiously motivated vandalism and similar anti-Semitic offenses and have denounced such actions editorially. So have public officials. The result has been a greater public awareness of the problems of bigotry and prejudice and, in general, those apprehended for anti-Jewish activity face greater public opprobrium in their local communities than was the case in the past.

In schools around the country, education against prejudice and for better intergroup relations have been going forward for a number of years in a long-range effort to improve the climate of understanding in the nation and to promote greater appreciation of cultural pluralism in America. Parallel programs are taking place in many churches.

In the last two or three years, as noted, various state legislatures have adopted stricter laws aimed at curbing ethnic vandalism and similar violations; some of these states adopted model legislation drafted by the ADL and, as also noted, action on similar legislation is pending in 1984 in several other states.

Police and law enforcement officials, especially in problem areas where most of the incidents of anti-Semitic vandalism and similar offenses have taken place, have been vigorously enforcing the law.

The Federal Bureau of Investigation has reported that crime in the first six months of 1983 showed a 5% decline nationwide, continuing a trend first evidenced in 1982 when overall crime declined 3% as compared to 1981. In the violent crime category, the F.B.I. reported, murder fell 12% in the first half of 1983; forcible rape, 4%; robbery 8%; and aggravated assault, 3%. In the crimes related to property loss, there was an 8% decline in burglary, 3% in larceny-theft, and 6% in reported motor vehicle thefts.

It may well be that the declines in anti-Semitic vandalism during 1982 and 1983, and the decline in anti-Jewish assaults, threats and harassments during 1983 are part of the overall drop in crime reported by the F.B.I.

Moreover, just as increases in anti-Semitic vandalism and similar offenses have been nourished in the recent past by "imitative behavior," it may well be that the declines in 1982 and 1983 result, in part at least, from "reverse imitative behavior." In the face of stricter legislation, vigorous law enforcement, and greater public awareness and opprobrium, it is quite possible that those tempted to commit acts of anti-Jewish vandalism and similar violations have been backing away from such action. Educational programs in schools, churches and other institutions may have had an impact on many teenagers.

Regardless of the decline in anti-Semitic vandalism in the past two years and the decline in anti-Semitic assaults, threats and harassments in 1983, the stark fact remains that in the last year there were 670 incidents of anti-Semitic vandalism and 350 incidents of anti-Jewish assault, threat or harassment.

The fact also remains that the vandalizing of one religious institution or one home because of the religion or race of the occupant is one too many.

American society cannot relax. Educational, legislative and law enforcement efforts cannot slacken until the stain of bigotry-motivated vandalism, assaults, threats and harassment is wiped from the American landscape.

V A N D A L I S M S

ASSAULTS, THREATS H A R A S S M E N

STATE	1983 COMPARED			LOCATION OF			S e r i o u s C r i m e					1983 COMPARED			1982-CHANGE		AL
	TOTAL	1982-CHANGE		Inst.	Pvt.	Pub.	ARSON--Att.	BOMB--Att.	DES.	CEM.	Inst.	Ind.	TOTAL		1982-CHANGE	ARI	
1- NEW YORK	215	272 down 57		64	108	43	1	5	0	1	6	9	114	123	191 down 68	8	
2- CALIFORNIA	111	134 down 23		22	55	34	0	2	0	0	2	5	23	28	74 down 46		
3- NEW JERSEY	57	69 down 12		6	41	10	0	0	0	0	0	2	18	20	22 down 2		
4- MARYLAND	47	32 up 15		5	25	17	0	0	0	0	0	0	25	25	15 up 10		
5- FLORIDA	42	38 up 4		16	7	19	0	1	0	0	0	3	12	15	9 up 6		
6- MASSACHUSETTS	36	62 down 26		6	18	12	0	1	0	0	0	2	21	23	37 down 14		
7- ILLINOIS	19	18 up 1		5	8	6	0	0	0	0	0	0	11	11	14 down 3		
8- PENNSYLVANIA	19	36 down 17		6	10	3	0	0	0	0	1	1	16	17	17 same 0		
9- MINNESOTA	18	25 down 7		9	5	4	0	1	0	0	0	0	22	22	42 down 20		
10- VIRGINIA	17	20 down 3		4	8	5	0	0	0	0	0	1	4	5	21 down 16		
11- MICHIGAN	12	3 up 9		3	3	6	0	0	0	0	0	3	6	9	15 down 6		
12- OHIO	11	8 up 3		1	2	8	0	0	0	0	0	2	4	6	10 down 4		
13- INDIANA	9	1 up 8		1	1	7	1	0	0	0	0	0	1	1	0 up 1		
14- CONNECTICUT	9	20 down 11		1	6	2	0	0	0	0	0	1	3	4	10 down 6		
15- LOUISIANA	6	7 down 1		4	0	2	0	0	0	0	0	0	0	0	7 down 7		
16- MISSOURI	5	13 down 8		0	5	0	0	0	0	0	0	2	8	10	33 down 23		
17- ARIZONA	4	4 same 0		2	2	0	0	0	0	0	0	0	0	0	2 down 2		
18- NEW MEXICO	4	2 up 2		1	1	2	0	0	0	0	0	0	0	0	0 same 0		
19- WASH. D OF C	4	12 down 8		1	0	3	0	0	0	0	0	1	1	2	2 same 0		
20- COLORADO	3	3 same 0		1	2	0	0	0	0	0	0	0	1	1	0 up 1		
21- WASHINGTON	3	3 same 0		0	3	0	0	0	0	0	0	0	4	4	0 up 4		
22- ARKANSAS	2	3 down 1		0	0	2	0	0	0	0	0	0	0	0	0 same 0		
23- GEORGIA	2	9 down 7		0	2	0	0	0	0	0	0	0	6	6	9 down 3		
24- IOWA	2	1 up 1		2	0	0	0	0	0	0	0	0	0	0	6 down 6		
25- KENTUCKY	2	2 same 0		0	2	0	0	0	0	0	0	0	0	0	3 down 3		
26- MISSISSIPPI	2	3 down 1		0	0	2	0	0	0	0	0	0	0	0	0 same 0		
27- NEBRASKA	2	1 up 1		1	1	0	0	0	0	0	0	2	2	4	7 down 3		
28- RHODE ISLAND	2	6 down 4		1	1	0	0	0	0	0	0	5	1	6	18 down 12		
29- TEXAS	2	11 down 9		0	2	0	0	0	0	0	0	0	2	2	5 down 3		
30- ALABAMA	1	0 up 1		0	1	0	1	0	0	0	0	0	0	0	0 same 0		
31- IDAHO	1	0 up 1		0	1	0	0	0	0	0	0	0	1	1	0 up 1		
32- OREGON	1	1 same 0		0	1	0	0	0	0	0	0	0	3	3	0 up 3		
33- NEW HAMPSHIRE	0	2 down 2		0	0	0	0	0	0	0	0	0	3	2	0 up 2		
TOTALS For 1983-	670	down 163		162	321	187	3	10	0	1	9	39	311	350	down 243	1	
1982-	829			197	347	285	7	7	3	0	15	136	457	593		1	

NEW YORK STATE

VANDALISMS

ASSAULTS, THREATS and HARASSMENTS

	1983	COMPARED		LOCATION OF 1983-INCIDENTS			S e r i o u s C r i m e					1983 COMPARED		ALL 1983		
	TOTAL	1982-CHANGE		Inst.	Pvt.	Pub.	ARSON--Att.	BOMB--Att.	DES.	CEM.	Inst.	Ind.	TOTAL	1982-CHANGE		ARRES
Long Island	<u>115</u>	152	down 37	13	73	29	0	0	0	0	1	2	82	<u>84</u>	132 down 48	57
Upstate	<u>13</u>	26	down 8	7	7	4	1	0	0	0	0	0	4	<u>4</u>	20 down 16	5
Manhattan	<u>14</u>	28	down 14	7	2	5	0	0	0	0	0	4	7	<u>11</u>	11 same 0	2
Brooklyn	<u>24</u>	29	down 5	14	9	1	0	3	0	1	1	2	9	<u>11</u>	8 up 3	4
Queens	<u>21</u>	21	same 0	12	8	1	0	1	0	0	1	0	7	<u>7</u>	10 down 3	15
Bronx	<u>13</u>	10	up 3	6	5	2	0	1	0	0	0	1	3	<u>4</u>	7 down 3	5
Staten Island	<u>10</u>	6	up 4	5	4	1	0	0	0	0	3	0	2	<u>2</u>	3 down 1	1
<hr/>																
1983 TOTALS	<u>215</u>	272	down 57	64	108	43	1	5	0	1	6	9	114	123	191 down 68	89
1982 TOTALS	272			67	109	96	4	3	0	0	1	28	163	191		87

Anti-Defamation League



of B'nai B'rith

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F- RERNV King

*cc: Leg Com
Albie
Wap*

May 31, 1985

Mr. Marty Mercado
1515 K Street
Suite 371
Sacramento, CA 95814

Dear Mr. Mercado:

Pursuant to the request of the Commission on
Racial, Ethnic, Religious, and Minority Violence,
I am including a copy of the testimony I delivered
on May 23, 1985.

Additionally, I am enclosing a copy of the Anti-
Defamation League's Annual Audit of Anti-Semitic
Incidents which may prove helpful to your work.

It was a pleasure to appear before the Commission
and I thank them for the invitation.

Cordially,

[Signature]
DAVID A. LEHRER
Western States Counsel

DAL/dgw
enclosures

Racial, Ethnic and Religious Crimes Project

Testimony of

David A. Lehrer

Western States Counsel

Anti-Defamation League of B'nai B'rith

Before

Attorney General's Commission on Racial,
Ethnic, Religious, and Minority Violence

May 23, 1985

Los Angeles, California

Madame Chairman and Members of the Committee:

My name is David A. Lehrer and I am the Western States Counsel for the Anti-Defamation League, founded in 1913 and a leading Jewish human rights agency. The League itself is part of B'nai B'rith, the oldest and largest Jewish fraternal order in the United States, founded in 1843.

We have been asked to present our views on the proposed "Racial, Ethnic and Religious Crimes Project." The ADL has had experience in collecting statistics concerning anti-Semitic vandalisms and other transgressions motivated by religious prejudice. We carry out an Annual Audit of Anti-Semitic Incidents and a copy of our 1984 Audit is attached. We have been conducting this Annual Audit for a number of years. One of my duties is supervising the compilation of these Audits in the West.

We support the concept of the proposed data collection system. We think the idea of a statewide data bank concerning crimes apparently committed as the result of racial, religious or ethnic prejudice is a good idea.

Because of our experience in conducting our Annual Audit, however, we feel we should outline briefly some of the problems involved in compiling statistics about racial, religious and ethnically-motivated crimes.

1. First and foremost is the problem of establishing bias as the motivating factor in an offense. For example, a synagogue is vandalized, an electric typewriter is stolen and cash is missing from the synagogue office. ADL does not include such a crime in its Audit as a religiously-motivated offense merely because it took place

at a synagogue. The same crime, however, would be considered as motivated by bias if the synagogue or the synagogue office were smeared with swastikas, or anti-Semitic epithets, or other clear evidence of anti-Semitism.

Another example: A Jewish cemetery is vandalized on a certain night and 50 gravestones are overturned while others are daubed with swastikas. We would count that as an anti-Semitic cemetery desecration. But if the same cemetery were vandalized but without swastika daubings, and on the same night, or the next night, a nearby Roman Catholic or Protestant cemetery were vandalized, we would not count the vandalism at the Jewish cemetery as necessarily motivated by anti-Semitism.

2. Second, is the problem of gathering accurate information. Except in New York City, where the police department has established a Bias Crime Unit, and in New York's Nassau and Suffolk Counties on Long Island where similar units have been established, local police departments do not generally maintain statistics about crimes deemed to be motivated by racial, religious or ethnic prejudice.

3. Our Audits have shown that the overwhelming majority of those arrested for bias crimes -- more than 80% for a number of years -- have been aged 20 or under, mostly teenagers and juveniles. Some police departments do not keep records of offenses by young people as criminal offenses; this tends to complicate the gathering of accurate statistics about crimes motivated by racial, religious or ethnic prejudice.

Our Audits, based on reports gathered by our 30 regional offices around the country and compiled by our National Office research staff, are as complete and accurate as we can make them. But they cannot be viewed as "scientific surveys" because, of course, they do not catch

every episode; many anti-Semitic offenses are simply not reported either to local law enforcement agencies, or to ADL regional offices around the country.

In short, the concept of a nationwide and statewide system of reporting crimes motivated by racial, religious or ethnic prejudice is one that we support but we are drawing attention to some of the logistical and judgmental problems that appear to us to be involved in developing such a system.

Some other states, one of which is Maryland, have adopted legislation that provides for record keeping of bias crimes, but there is considerable difference between the usual crimes -- murder, assault, rape and the like -- and crimes motivated by racial, religious and ethnic prejudice, because many of the latter involve far more subjective judgment.

To summarize: We support the concept embodied in the proposals but we draw attention to the need to focus on the logistical and procedural problems involved in establishing such a system and putting it into place on a permanent basis.

If there is any further way in which we can be helpful in your future deliberations, please do not hesitate to call on us. We stand ready to cooperate with you as best we can.

**1984
AUDIT OF
ANTI-SEMITIC INCIDENTS**



Anti-Defamation League of B'nai B'rith
823 United Nations Plaza, New York, NY 10017

1984 ANTI-DEFAMATION LEAGUE
AUDIT OF ANTI-SEMITIC INCIDENTS

January, 1985

Introduction

The frequency of anti-Semitic vandalism and of other attacks against Jewish institutions, businesses and homes in the U.S. during 1984 showed a small increase compared to 1983. The number of anti-Semitic vandalism incidents at Jewish institutions and privately-owned properties reported by Anti-Defamation League offices around the country was 715, an increase of 6.7% compared to the 670 incidents reported during 1983. The 1984 increase interrupted declines of 19.2% in 1983 and 14.9% in 1982. The declines followed two years -- 1980 and 1981 -- in each of which vandalism incidents more than doubled: 192% in 1980 and 158% in 1981.

The number of anti-Semitic vandalisms, including more serious crimes such as bombings, attempted bombings, arsons, attempted arsons and cemetery desecrations, recorded by the ADL Audit in recent years is as follows:

1979 - 129	1982 - 829
1980 - 377	1983 - 670
1981 - 974	1984 - 715

More Serious Incidents

More serious incidents monitored by the ADL as part of the vandalisms in the Annual Audit -- bombings, attempted bombings, arsons, attempted arsons and cemetery desecrations -- increased during 1984. There were three bombings in 1984 compared to none in 1983; there was one attempted bombing in 1984, the same as in 1983. Arsons rose noticeably; there were nine in 1984 compared to three in 1983, but attempted arsons dropped slightly, to eight in 1984 from 10 in 1983. Cemetery desecrations increased to 11 in 1984 from nine in 1983.

The picture with respect to these more serious violations in recent years is as follows:

	<u>ARSONS</u>	<u>ATTEMPTED ARSONS</u>	<u>BOMBINGS</u>	<u>ATTEMPTED BOMBINGS</u>	<u>CEMETERY DESECRATIONS</u>	<u>TOTAL</u>
1979	10	0	2	0	0	12
1980	10	2	4	2	5	23
1981	10	6	4	2	15	37
1982	7	7	3	0	15	32
1983	3	10	0	1	9	23
1984	9	8	3	1	11	32

In 1984, as in the past, the overwhelming majority of the incidents reported, based on those cases in which arrests were made, appeared to be the work of teenagers. In only five of the 3,694 vandalisms recorded during the last six years -- a fraction of 1% -- has there been evidence of organized hate group involvement, the last in 1981.

In a separate category of assaults against Jewish individuals, and threats and harassments in which Jewish individuals or Jewish-owned properties were the victims or targets, the picture in 1984 was also similar to that recorded in 1983: there were 369 such incidents reported in 1984 compared to 350 in 1983, an increase of 5.4%.

Anti-Semitism in the U.S.

In reading the 1984 ADL Audit of Anti-Semitic Incidents, it should be borne in mind that while the Audit provides a useful yardstick for measuring an aspect of anti-Jewish hostility in the country, it is not the only such yardstick.

Anti-Semitism in the United States manifests itself in various ways:

- In national and local political campaigns;
- In the anti-Semitic rhetoric of various Arab representatives in the halls of the United Nations;
- In the anti-Semitism promoted around the world by the Soviet Union in the guise of "anti-Zionism";
- In the anti-Israel and anti-Zionist propaganda carried on by pro-Arab and pro-PLO organizations in the U.S. that often tends to mask hostility to Jews;
- In the propaganda activities of organized right-wing anti-Jewish hate groups, such as the KKK, neo-Nazi groups, Willis Carto's Liberty Lobby, and Lyndon LaRouche's operations.
- In the activities of radical leftist organizations such as the Communist Party USA whose propaganda against Israel and Zionism attacks the most basic concerns of the overwhelming majority of Jews in the United States and around the world.

Publicized Incidents

Several incidents in 1984 attracted considerable media attention. In April, a synagogue in Boise, ID, was bombed. Damage was estimated at \$5,000 to \$6,000. Because Idaho rarely has been the scene of anti-Semitic vandalism or other anti-Jewish violations, the synagogue bombing in Boise was unusual. The militantly anti-Semitic and violence-prone Aryan Nations organization, which has its headquarters at Hayden Lake, ID, disclaimed any connection with the as yet unsolved bombing.

Co-op City, a massive apartment complex in The Bronx, NY, was the scene of anti-Semitic and racial vandalisms on 17 separate days beginning in April

and continuing through November; these remain unsolved. On these days, and at various buildings in the giant complex, anti-Semitic graffiti, including swastikas and anti-Jewish epithets were smeared on apartment doors; the vandals concentrated mostly on those apartments displaying mezuzahs on their doorposts. Some of the anti-Semitic -- and the racist -- graffiti was smeared on hallway walls, elevator walls and stairwells.

In October, a newly-opened synagogue in Manalapan, NJ, was vandalized when a bulldozer parked on the grounds was driven into a wall of the building. In addition to the damage caused by the bulldozer, the temple was defaced by anti-Semitic slogans and epithets. Three teenagers were arrested and charged with the vandalism. A few days later, two other teenagers were arrested in connection with an earlier vandalism and attempted arson at another Manalapan synagogue in which a Molotov cocktail was hurled at the house of worship. Two of the teenagers charged in the bulldozing episode were also charged in connection with the earlier arson attempt.

Multiple or Repetitive Incidents

The experience at Co-op City -- of multiple and repetitive anti-Semitic vandalism in apartment houses or in a particular neighborhood -- was a pattern reported from some other locations around the country -- Philadelphia, PA, Salem, MA, Knoxville, TN, Atlanta, GA, Los Angeles and San Francisco, CA. No arrests have been reported in connection with any of these episodes.

The 1984 Geographic Breakdown

The 715 incidents of anti-Semitic vandalism took place in 32 states and the District of Columbia, the same total of states as in 1983. Once again, as in recent years, New York and California were the states reporting the largest number of anti-Semitic vandalisms -- New York with 237 and California with

99. New York increased by 22 incidents compared to 1983 but California decreased by 12. Maryland with 69, an increase of 22 incidents over 1983, moved from fourth place to third. New Jersey, with 56 -- a decrease of one -- dropped from third to fourth place. Florida, with 51 incidents reported -- up nine -- remained in fifth place.

These five states were followed by Pennsylvania (28, up 9), Massachusetts (20, down 16) and Illinois (19, no change compared to 1983).

The Northeastern region, comprising seven states and the District of Columbia, accounted for roughly 60% of the total number of anti-Semitic vandalism reported. In 1983, these states accounted for 58% of the total. The Northeastern states are: Massachusetts (20), Rhode Island (7), Connecticut (5), New York (237), New Jersey (56), Pennsylvania (28), Maryland (69) and the District of Columbia (10).

In nine Southern states, 98 vandalism incidents were reported -- 13.7% of the 1984 total -- compared to 73 such incidents which formed 10.9% of the 1983 total. The nine Southern states are: Florida (51), Georgia (15), Louisiana (9), Virginia (9), Mississippi (5), Texas (5), Arkansas (3), Tennessee (3), and North Carolina (1).

The Midwest -- Illinois (19), Minnesota (15), Michigan (7), Ohio (6), Indiana (4), Missouri (2), Iowa (1), Nebraska (1) and Wisconsin (1) -- showed a noticeable decline in 1984 compared to 1983. Fifty-six anti-Semitic vandalism incidents were reported in these states during 1984 compared to 80 in 1983. The Midwest accounted for 7.8% of the total number of such incidents in 1984 compared to 11.9% in 1983.

The Western region of the country showed practically no change compared to 1983. The seven states of the region -- California (99), Arizona (10), Washington (7), Colorado (6), Oregon (2), Idaho (1) and New Mexico (1) -- had 126 incidents of anti-Semitic vandalism which comprised 17.6% of the total.

In 1983, there were 127 such incidents reported in these states which formed 19% of last year's total.

Assaults, Threats and Harassments

Although the total number of assaults against Jewish individuals and threats and harassments in which Jewish individuals or Jewish-owned properties were the targets remained practically unchanged -- 369 in 1984 compared to 350 in 1983 -- there was a near reversal in the "mix" comprising this year's total. The number of incidents in which Jewish institutions were the targets of threats by mail or telephone, or of other anti-Jewish harassment, increased markedly -- from 39 in 1983 to 106 in 1984. The number of such incidents in which Jewish individuals were the targets or the victims dropped by 48 -- from 311 in 1983 to 263 in 1984.

Arrests

During 1984, police and law enforcement authorities arrested 84 persons in connection with 51 of the total number of incidents reported. In 1983, 115 persons were arrested in connection with 55 of the incidents. In 1984, as in previous ADL Audits, the overwhelming majority of those arrested were aged 20 or under; 73 of the 84 persons arrested -- 87% -- were 20 or younger.

ADL Security Handbook

During 1984, the Anti-Defamation League of B'nai B'rith published and distributed across the country a security handbook aimed at preventing -- and coping with -- destructive violence against persons and property, including such violence motivated by religious or racial prejudice. The document -- Security for Community Institutions -- was prepared in cooperation with the Crime Prevention Section of the New York City Police Department. It was based

on ADL's experience in monitoring and countering anti-Jewish vandalism and other crimes aimed at Jews, Jewish institutions, and Jewish-owned property. It reflected the knowledge gained by the League and its 30 regional offices in working closely with law enforcement agencies from coast to coast and in co-sponsoring security conferences and workshops involving police, educators, and community organizations.

The ADL handbook received endorsements from local and Federal law enforcement officials in Boston, Los Angeles, New Jersey and Washington, DC.

It outlined proper security measures and procedures for community institutions; proper reaction when incidents occur; provided details of security programs carried out by the New York City Police Department's Crime Prevention Section and its Bias Incident Investigating Unit, first of its kind in the nation; a model form for reporting incidents of violence to local police departments, and the text of a model statute developed by ADL as a tool to assist law enforcement agencies to cope with problems such as vandalism against religious and ethnic institutions.

Evaluation and Conclusion

It is disturbing that the declines in anti-Semitic vandalism recorded in the ADL Audits of 1982 and 1983 have been interrupted by the 6.7% increase recorded in 1984. The latest total of 715 incidents, however, is substantially lower than the peak of 974 recorded in 1981. The 6.7% increase this year is moderate, however, when compared to the skyrocketing increases of 192% and 158% recorded in 1980 and 1981.

That there were 715 incidents of anti-Semitic violence indicates clearly that the counteractive measures and social "preventive medicine" which ADL mentioned last year are still very much needed: stricter laws against violence motivated by anti-Semitic and racial bigotry, stricter law enforcement,

greater attention by the media of public information to the problem of anti-Semitic violence, more education for understanding and good will in the schools and churches, more community meetings to map counter measures, and more vocal community response to incidents of violence motivated by hate. In short, more hard work, more vigilance, more education and more good will must take place in communities around the country before the nation can be free of the scourge of violence motivated by ignorance and prejudice.

The teenage vandals who appear overwhelmingly to be responsible for much of the anti-Jewish vandalism must be dealt with firmly by American communities, and their offenses punished and repudiated by community and church leaders and by all citizens of good will.

A model can be seen in the response of the community of Manalapan, NJ, where the five teenagers were accused in the two assaults against Jewish houses of worship. There, U.S. Senator Frank Lautenberg and the Gov. Thomas Kean joined with county and local officials and with local religious and community leaders in expressing outrage; these officials and leaders participated, with 3,000 citizens, in a Solidarity Day that manifested total repudiation of the anti-Jewish violence. The Solidarity Day also expressed the community's commitment to the cause of good will and interreligious understanding. As for the five teenagers arrested in the two synagogue violations, they have been indicted and face trial.

THE 1984 ADL AUDIT OF ANTI-SEMITIC VANDALISMS AND OTHER INCIDENTS

VANDALISMS

ASSAULTS, THREATS, HARASSMENTS

ALL 1984 ARRESTS

ALL 1984 ARRESTS																
SERIOUS CRIMES																
HARASSMENTS																
STATE	1984	LOCATION			CEM			'83/'84		1984	1983	AGED 20 or 21 and UNDER/OVER				
	TOTAL	INST.	PVT.	PUB.	ARS/att	BMB/att	DES.	CHANGE	INST.	IND.	TOTAL	TOTAL	CASES	INDS.	UNDER	OVER
1. NEW YORK.....	237	72..	103..	62	5...7...0...0...4..			215 +22..	26..	108..	134	123	41...	63...	55	8
2. CALIFORNIA.....	99	28..	53..	18	3...0...1...0...1..			111 -12..	12..	11..	23	28	2...	3...	3	0
3. MARYLAND.....	69	14..	30..	25	0...0...0...0...1..			47 +22..	5..	9..	14	25	2...	3...	2	1
4. NEW JERSEY.....	56	11..	31..	14	0...1...1...1...0..			57 - 1..	9..	11..	20	20	1...	5...	5	0
5. FLORIDA.....	51	14..	10..	27	0...0...0...0...0..			42 + 9..	8..	17..	25	15	0...	0...	0	0
6. PENNSYLVANIA...	28	6..	18..	4	0...0...0...0...0..			19 + 9..	0..	17..	17	16	2...	5...	5	0
7. MASSACHUSETTS..	20	3..	12..	5	0...0...0...0...0..			36 -16..	3..	24..	27	23	1...	2...	1	1
8. ILLINOIS.....	19	1..	13..	5	0...0...0...0...0..			19 0..	9..	14..	23	11	1...	2...	2	0
9. GEORGIA.....	15	0..	8..	7	0...0...0...0...0..			2 +13..	3..	6..	9	6	0...	0...	0	0
10. MINNESOTA.....	15	8..	4..	3	0...0...0...0...1..			18 - 3..	6..	8..	14	22	1...	1...	0	1
11. Dist. Columbia.	10	1..	1..	8	0...0...0...0...0..			4 + 6..	1..	0..	1	2	0...	0...	0	0
12. ARIZONA.....	10	3..	3..	4	0...0...0...0...0..			4 + 6..	1..	7..	8	0	0...	0...	0	0
13. LOUISIANA.....	9	7..	2..	0	0...0...0...0...1..			6 + 3..	4..	1..	5	0	0...	0...	0	0
14. VIRGINIA.....	9	0..	2..	7	0...0...0...0...0..			17 - 8..	3..	2..	5	5	0...	0...	0	0
15. MICHIGAN.....	7	2..	2..	3	0...0...0...0...0..			12 - 5..	0..	0..	0	9	0...	0...	0	0
16. RHODE ISLAND...	7	5..	1..	1	1...0...0...0...0..			2 + 5..	2..	0..	2	6	0...	0...	0	0
17. WASHINGTON.....	7	3..	3..	1	0...0...0...0...0..			3 + 4..	2..	6..	8	4	0...	0...	0	0
18. COLORADO.....	6	2..	1..	3	0...0...0...0...0..			3 + 3..	0..	0..	0	1	0...	0...	0	0
19. OHIO.....	6	2..	3..	1	0...0...0...0...0..			11 - 5..	7..	1..	8	6	0...	0...	0	0
20. CONNECTICUT....	5	4..	1..	0	0...0...0...0...3..			9 - 4..	0..	3..	3	4	0...	0...	0	0
21. MISSISSIPPI....	5	0..	5..	0	0...0...0...0...0..			2 + 3..	0..	0..	0	0	0...	0...	0	0
22. TEXAS.....	5	0..	4..	1	0...0...0...0...0..			2 + 3..	0..	2..	2	2	0...	0...	0	0
23. INDIANA.....	4	3..	0..	1	0...0...0...0...0..			9 - 5..	3..	1..	4	1	0...	0...	0	0
24. ARKANSAS.....	3	0..	3..	0	0...0...0...0...0..			2 + 1..	0..	0..	0	0	0...	0...	0	0
25. TENNESSEE.....	3	2..	1..	0	0...0...0...0...0..			0 + 3..	0..	0..	0	0	0...	0...	0	0
26. MISSOURI.....	2	1..	0..	1	0...0...0...0...0..			5 - 3..	0..	3..	3	10	0...	0...	0	0
27. OREGON.....	2	1..	1..	0	0...0...0...0...0..			1 + 1..	0..	5..	5	3	0...	0...	0	0
28. IDAHO.....	1	1..	0..	0	0...0...1...0...0..			1 0..	0..	0..	0	1	0...	0...	0	0
29. IOWA.....	1	1..	0..	0	0...0...0...0...0..			2 - 1..	0..	0..	0	0	0...	0...	0	0
30. NEBRASKA.....	1	0..	1..	0	0...0...0...0...0..			2 - 1..	0..	0..	0	4	0...	0...	0	0
31. NEW MEXICO.....	1	0..	1..	0	0...0...0...0...0..			4 - 3..	0..	0..	0	0	0...	0...	0	0
32. NORTH CAROLINA.	1	0..	0..	1	0...0...0...0...0..			0 + 1..	2..	0..	2	0	0...	0...	0	0
33. WISCONSIN.....	1	1..	0..	0	0...0...0...0...0..			0 + 1..	0..	1..	1	0	0...	0...	0	0
34. DELAWARE.....	0	0..	0..	0	0...0...0...0...0..			0 0..	0..	4..	4	0	0...	0...	0	0
35. NEW HAMPSHIRE..	0	0..	0..	0	0...0...0...0...0..			0 0..	0..	1..	1	3	0...	0...	0	0
36. VERMONT.....	0	0..	0..	0	0...0...0...0...0..			0 0..	0..	1..	1	0	0...	0...	0	0
Alabama, Kentucky					0...0...0...0...0..			0 0..	0..	1..	1	0	0...	0...	0	0
1984 - TOTALS	715	196	317	202	9	8	3	1	11	106	263	369		51	84	73 / 11
1983 - TOTALS	670	162	291	187	3	12	6									

THE 1984 ADL AUDIT OF ANTI-SEMITIC VANDALISMS AND OTHER INCIDENTS

- NEW YORK STATE -

	V A N D A L I S M S										ASSAULTS, THREATS, HARASSMENTS				ALL 1984 ARRESTS			
	1984 TOTAL	LOCATION INST.PVT.PUB.			SERIOUS CRIMES					'83/'84 CHANGE	1984 INST. IND. TOTAL			1983 TOTAL	CASES INDS. AGED 20 or 21 and UNDER/OVER			
					ARS/att	BMB/att	CEM DES.	1983 TOTAL										
MANHATTAN.....	11 ...	4..	2..	5	1...	0...	0...	0...	0	14 - 3	5..	5..	10	11 ...	1...	6...	6 / 0	
BROOKLYN.....	45 ...	30..	11..	4	3...	4...	0...	1...	0	24 +21	6..	5..	11	11 ...	4...	7...	5 / 2	
QUEENS.....	31 ...	15..	13..	3	0...	0...	0...	0...	1	21 +10	5..	2..	7	7 ...	0...	0...	0 / 0	
BRONX.....	36 ...	9..	7..	20	0...	2...	0...	0...	0	13 +23	2..	4..	6	4 ...	1...	2...	2 / 0	
STATEN ISLAND.....	5 ...	1..	4..	0	0...	0...	0...	0...	0	10 - 5	2..	5..	7	2 ...	0...	0...	0 / 0	
UPSTATE.....	12 ...	5..	5..	2	0...	0...	0...	0...	2	18 - 6	0..	4..	4	4 ...	1...	3...	3 / 0	
NASSAU COUNTY.....	48 ...	4..	28..	16	1...	0...	0...	0...	0	56 - 8	0..	24..	24	28 ...	14...	17...	15 / 2	
SUFFOLK.....	49 ...	4..	33..	13	0...	1...	0...	0...	1	59 -10	6..	59..	65	56 ...	20...	28...	24 / 4	
1984 TOTALS	237	72	103	62	5	7	0	0	4		26	108	134		41	63	55 / 8	
1983 TOTALS	215	64	108	43	1	5	0	1	6	215 +22	9	114	123		45	89	77 / 12	



ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE

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Attorney General

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Sacramento, CA
95814

In May 1984, Attorney General John Van de Kamp established the Commission on Racial, Ethnic, Religious and Minority Violence as a response to a growing and disturbing trend toward violence against members of racial, ethnic, religious and other minority groups. In an effort to deal most effectively with this area of growing concern, the RERMV Commission has been divided into three subcommittees - Education/Community Relations, Litigation, and Legislation.

The primary purpose of the Legislation subcommittee is to assess the deficiencies of current law and make specific recommendations for legislation to improve and strengthen the laws to combat crimes whose motivation is based on racial or religious bigotry.

The Ralph Civil Rights Act provides that "...all persons have the right to be free from any violence or intimidation by threat of violence, committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, age, disability, sexual orientation, or position in a labor dispute...". Further, the bill provides civil remedies for a violation of the rights, and authorizes the Attorney General to bring an action under appropriate circumstances.

It appears that the Ralph Act is not being used for the intent for which it was established, and we are interested in trying to determine reasons why not, how it could be strengthened, if necessary, and, in addition, to also look at criminal remedies already on the books to see if they are effective and sufficient.

In addition, SB 2080 (Chap. 1482, Statutes of 1984) which became effective January 1, 1985, requires that the Attorney General commence a one-year project to develop a program model to collect, compile, and analyze information on racially, ethnically, and religiously - motivated crimes. SB 2080 requires that the project "include, but not be limited to, development of uniform guidelines for consistent identification of racial, ethnic, and religious crimes...".

Attached are proposed definitions and guidelines which have been developed for this purpose. We solicit your input with respect to these guidelines and definitions, and welcome any comments or suggestions you may have.

In order to address these and other related questions, to solicit ideas on legislative reforms, the Legislative Subcommittee will hold a hearing on Monday, October 7, 1985, beginning at 10:00 a.m., in the 601 Board Room, California State Bar Association Building, 555 Franklin Street, San Francisco.

We are requesting that participants address specific suggestions for criminal or civil legislation, and have developed the attached questionnaire for this purpose. In order that we have the benefit of your input, we would appreciate your completing and returning the questionnaire whether you plan to attend the hearing or not.

If you plan to testify at the hearing, please return the attached confirmation sheet to Marty Mercado, Commission Coordinator, Office of the Attorney General, 1515 K Street, Sacramento, CA 95814, (916) 324-7859 by September 20 to allow for proper planning. As soon as the agenda has been finalized, we will send you a copy.

We appreciate your attention and consideration, and look forward to hearing from you.

Sincerely yours,

DIANE YU, Chairperson
Legislation Subcommittee

cc: RERMV Commission members

Enclosures: confirmation sheet
hearing questionnaire
SB 2080 guidelines and definition
Ralph Civil Rights Act

**ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS AND MINORITY
VIOLENCE**

To: MARTY MERCADO, Coordinator
Office of the Attorney General
1515 K Street
Sacramento, CA 95814

_____ I plan to attend the public hearing on October 7.

_____ I plan to testify.

_____ I plan to submit written testimony.

Name _____
(please print)

Agency/Organization _____

Address _____

Telephone _____

PLEASE RETURN BY SEPTEMBER 20TH

ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY
VIOLENCE

PUBLIC HEARING

October 7, 1985
10:00 a.m. - 4:00 p.m.
California State Bar Association Building
601 Board Room
555 Franklin Street
San Francisco, Calif

The Ralph Civil Rights Act of 1976 (Code Civ. Proc., §51.71) provides that "...all persons have the right to be free from any violence or intimidation by threat of violence, committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, age, disability, sexual orientation, or position in a labor dispute...". It also provides civil remedies for a violation of the right, and authorizes the Attorney General to bring an action under appropriate circumstances. (Exhibit A)

In addressing the following questions, we would appreciate your candid views as to the effectiveness and enforceability of proposed laws, and request specific suggestions you might have in that regard:

1. Is it clear what responsibility law enforcement officers have to enforce the Ralph Civil Rights Act?
2. In your opinion, why is the Ralph Civil Rights Act not being used more frequently?
3. Should there be criminal sanctions for violation of the Ralph Act?
4. How could the Ralph Act be strengthened? What problems do you perceive in doing so?
5. How does the problem of judgement-proof defendants figure into the effectiveness of the Ralph Act? How might this be remedied?
6. Should the Attorney General be given more authority to bring civil rights actions under the Ralph Act? For example, should the AG be empowered to bring damage actions for violation of civil rights on behalf of victims? (Under the statute as presently written, the AG is empowered to bring injunctive actions only where a pattern and practice of civil rights violations is shown to exist.)
7. Would it be of any assistance to law enforcement to have new penal laws directed specifically at violations of civil rights?
8. What would be the effect or usefulness of providing for sentence enhancements where crimes are found to have been motivated by prejudice or bigotry?

9. What about mandatory jail time such as exists with drunk driving?
10. It is a criminal violation of federal law to conspire to violate the civil rights of a person. Would such an amendment to the Ralph Civil Rights Act be useful?
11. What would be the difficulties in prosecuting such a conspiracy complaint, and what should be included to minimize these difficulties?
12. Are the guidelines and definitions of RERMV crimes which are being proposed workable in your opinion? What problems do you perceive in the implementation of this definition?

Additional comments (attach additional sheets).

Submitted by: _____

AGENCY/ORGANIZATION _____

RETURN TO: MARTY MERCADO, OFFICE OF THE ATTORNEY GENERAL, 1515 K STREET,
SACRAMENTO, CA., 95814 WHETHER YOU PLAN TO TESTIFY IN PERSON OR NOT.

CALIFORNIA DEPARTMENT OF JUSTICE
DIVISION OF LAW ENFORCEMENT
BUREAU OF CRIMINAL STATISTICS AND SPECIAL SERVICES

RACIAL, ETHNIC, AND RELIGIOUS CRIMES PROJECT (SB 2080)
DATA COLLECTION DESIGN

BACKGROUND

In the past several years, minority-motivated crimes and incidents have increased throughout the State and country. Minority-motivated acts not only have a devastating effect on the individual victim, but also threaten the democratic foundations of our society.

In the passage of Senate Bill (SB) 2080, which became effective January 1, 1985 (Penal Code (PC) Sections 13870-13872), the California Legislature declared that the exposure of the facts about racial, ethnic, and religious crimes will lead to greater public awareness of the problem of bigotry and prejudice and will provide a foundation for developing remedies to the problem.

The specific objective of SB 2080 is to develop a program model for a statewide information center to collect, compile, and analyze information on **racial, ethnic, and religious crimes**. This one-year project is being administered by the California Department of Justice, Division of Law Enforcement under the direction of Attorney General John K. Van de Kamp. Subsequent to passage of SB 2080, the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence requested that crimes motivated by sexual orientation (gays, lesbians, etc.) also be included in the pilot project because of the increasing incidence and severity of such crimes in California.

POLICY

Each criminal justice agency has an obligation to investigate crimes motivated by race, ethnicity, religion, or sexual orientation, and to recognize and react in a supportive manner to the emotional trauma experienced by victims, families, and citizens in communities where these crimes occur. Special attention must be focused on sensitizing employees of criminal justice agencies responding to such crimes to ensure that they:

- Approach victims in an empathetic and supportive manner.
- Effectively calm the victim and reduce the victim's alienation.
- Reassure the victim that every available investigative and enforcement tool is being utilized to identify and prosecute the person(s) responsible for the crime/incident.
- Recognize and address tensions and alienations within the community as a result of such crimes/incidents.

It should be the policy of each law enforcement agency in California to respond in a timely and effective manner to all reported or observed crimes/incidents motivated by race, ethnicity, religion, or sexual orientation. The actions taken by all law enforcement personnel in dealing with such crimes are visible signs of concern and commitment to the community on the part of the Attorney General and every law enforcement agency within the State.

RESPONSIBILITIES

The Department of Justice (DOJ), Division of Law Enforcement is responsible for:

- Developing uniform guidelines for consistent identification of crimes/incidents motivated by race, ethnicity, religion, or sexual orientation.
- Training key personnel of law enforcement agencies participating in the pilot project in the identification of reportable crimes/incidents and the submission of information on these crimes/incidents to DOJ.
- Recommending an appropriate means for statewide collection of data on such crimes.
- Recommending an appropriate state agency to implement ongoing collection of this information.
- Preparing a final report to the Legislature describing the project findings.

Law Enforcement agencies selected to participate in the pilot project are responsible for:

- Reviewing the guidelines and data collection vehicle developed by DOJ.
- Training employees in the identification of and response to crimes/incidents motivated by race, ethnicity, religion, or sexual orientation.
- Encouraging special interest groups within their communities, including NAACP, victim assistance groups, the Human Relations Commission, and other minority groups, to report such crimes to their local law enforcement agency.
- Submitting crime/incident reports to DOJ on all such crimes/incidents which occur during the data collection phase of the one-year pilot project.
- Evaluating the effectiveness of the guidelines and definitions developed by DOJ within their respective communities.

DATA COLLECTION PROCEDURES

I. Participating Agencies (based on preliminary agreement)

- Compton Police Department
- Fresno Sheriff's Office
- Inglewood Police Department
- Oakland Police Department
- Sacramento Police Department
- Sacramento Sheriff's Office
- San Jose Police Department
- Riverside Police Department

II. Activities for the Data Collection Phase

- | | |
|--------------------------------|--|
| April 19, 1985 | DOJ provides copies of data collection design, definitions, and guidelines to participating law enforcement agencies. |
| May 1, 1985 | Law enforcement agencies submit final confirmation to DOJ of their participation in the pilot project. |
| May 1-10, 1985 | DOJ provides training in identification and reporting of crimes/incidents to key personnel in participating agencies. |
| May 15 -
September 30, 1985 | Participating agencies submit reports on reportable crimes/incidents to DOJ. DOJ staff will provide consultation and additional training, as needed, throughout this period. |

June 1 – October 31, 1985	DOJ compiles reports from participating agencies and evaluates information in accordance with guidelines and definitions.
October 15, 1985	Participating agencies provide DOJ with evaluation of the effectiveness of the definitions and guidelines within their agencies, and make recommendations for changes.
December 1, 1985	DOJ evaluates and revises definitions and guidelines, and develops proposed procedures for statewide reporting of such crimes/incidents.
January 1, 1986	DOJ makes final report to California Legislature on project findings.

III. Data Collection Form

From May 15, 1985 through September 30, 1985, participating law enforcement agencies shall send copies of all crime/incident reports to DOJ for any criminal or noncriminal acts identified to be motivated by race, ethnicity, religion, or sexual orientation pursuant to the attached definitions and guidelines (Attachment A). A copy of DOJ form number SS-8040, "Supplemental Report for Racial, Ethnic, and Religious Crimes Project (SB 2080)" (Attachment B), shall be completed and attached to each crime/incident report. Instructions for completion of form SS-8040 are provided on the reverse of each form. Each crime/incident report and DOJ form should be forwarded to DOJ *immediately* upon completion.

PROPOSED

CALIFORNIA DEPARTMENT OF JUSTICE
DIVISION OF LAW ENFORCEMENT
BUREAU OF CRIMINAL STATISTICS AND SPECIAL SERVICES

ATTACHMENT A

RACIAL, ETHNIC, AND RELIGIOUS CRIMES PROJECT (SB 2080)

DEFINITIONS AND GUIDELINES

DEFINITIONS

A reportable crime/incident, for the purposes of SB 2080, is any act or attempted act to cause physical injury, emotional suffering, or property damage, which is or appears to be motivated, all or in part, by the victim's race, ethnicity, religion, or sexual orientation.

Motivation – Incentive, inducement, desire, emotion, or similar impulse resulting in some type of action.

Race – Any group or class of individuals with common characteristics distinguished by form of hair, color of skin and eyes, stature, bodily proportions, etc., that are genetically transmitted to classify it as a distinct human type.

Ethnic Group – Any group or class of individuals within a culture or social system that can be distinguished on the basis of variable traits including nationality, religion, linguistics, ancestry, physical characteristics, traditions, attire, etc.

Religion – A personal awareness or conviction of the existence of a supreme being, supernatural powers, or influences controlling one's own humanity or all nature's destiny.

Sexual Orientation – The direction of sexual, emotional, and/or physical attraction and preference, which may be primarily towards persons of the opposite sex (heterosexuality), primarily towards persons of the same sex (homosexuality), or toward both in some proportion (bisexuality). Sexual orientation develops independently from gender identity and gender role. It is not possible to determine a person's sexual orientation solely by his/her dress, mannerisms, choice of occupations, or any other visible factor.

IDENTIFICATION OF REPORTABLE CRIMES

A. Criteria

The following criteria should be used in determining whether a crime/incident was motivated by race, ethnicity, religion, or sexual orientation. The criteria, which should be applied singularly and in combination, are not all inclusive but provide a general guideline for consistent identification of such crimes.

1. A lack of any other apparent motive for the act (financial gain, sexual gratification, etc.).
2. A symbol(s), word(s), or act(s) which is or may be offensive to a specific race, ethnic group, religious group, or persons with differing sexual orientation (swastika, cross burning, "nigger," "queer," etc.).
3. Statements/actions of the victim(s), suspect(s), and other involved parties.

- ~~REPOSED~~
4. Prior history of similar crimes/incidents in same area or against the same victim group.
 5. Community response to the crime/incident.

B. Questions to Consider When Identifying Crimes/Incidents Motivated by Race, Ethnicity, Religion, or Sexual Orientation

1. Did the incident occur solely because of racial, ethnic, religious, or sexual differences between the persons/groups or for other reasons (childish pranks, unrelated vandalism, school rivalry, etc.)?
2. Has the victim or victim group been subjected to repeated attacks of a similar nature?
3. Is the victim the only minority group member in the neighborhood or one of a few?
4. Did the victim recently move into the area; is the victim acquainted with neighbors and/or local community groups?
5. When multiple incidents occur at the same time, are all victims of the same race, ethnicity, religion, or sexual orientation?
6. Has the victim been associated with any recent or past activities relating to his/her race, ethnicity, religion, or sexual orientation (e.g., NAACP, gay rally, demonstrations by or against the Klan or American Nazi Party, etc.)?
7. Has there been prior/recent news coverage of events of a similar nature?
8. What was the manner and means of attack (e.g., color of paint, correctness of the spelling of words, symbols or signs used, etc.)? Is it similar to other documented incidents?
9. Is there an ongoing neighborhood problem that may have initiated or contributed to the act (e.g., could the act be retribution for some conflict with neighbors, area juveniles, etc.)?
10. Does the crime/incident indicate possible involvement by an organized group (e.g., Ku Klux Klan, American Nazi Party, Adolf Defense League, etc.)? For example:
 - a. Is the literature printed or handwritten?
 - b. Does the name signify a "copy-cat" syndrome?
 - c. Is there any documented or suspected organized group activity in the area?
 - d. Was this group "involved" in a true sense, or as a fear or scare tactic?
11. Does the party(s) responsible have a true understanding of the impact of the crime/incident on the victim or other group members?

C. Examples of Reportable Crimes/Incidents (consider attempts as if act had occurred)

1. **Physical assault** — Includes acts of physical violence, assaults with weapons, gang violence, etc. (Gang violence is between two or more groups comprised of individuals which differ in race, ethnicity, religion, or sexual orientation. Do not report "turf-predicated" violence unless race, ethnicity, religion, or sexual orientation were motivating factors.)

~~Report~~

2. **Sexual assault** – Rape, sexual abuse, sexual exploitation, and other forms of sexual assault.
3. **Mail or telephone threat.**
4. **Disturbing the peace** – Includes any racial, ethnic, religious, or sexually-oriented slurs, such as “nigger,” “Jew bastard,” “faggot,” “queer,” etc.
5. **Interrupting or disturbing public assembly/meeting** – Includes disruption of religious meeting, lawful march or demonstration, conference/convention, holiday celebration, etc.
6. **Possession of firearm in proximity of public assembly/meeting.**
7. **Vandalism** – Destroying or injuring private or public property.
8. **Symbolic gesture/act** – Any written language, symbol, or act which has been historically directed against persons because of their affiliations/origins, such as cross burning, hanging in effigy, swastika, “nigger,” “queer,” etc.
9. **Arson, bombing, and unlawful use of explosives.**
10. **All other criminal and noncriminal acts directed at any individual or group with the apparent intention to harm, harass, intimidate, threaten, retaliate, alienate, or create conflict.**

If, after applying the above definitions and guidelines, the motivation for a crime/incident is still questionable (“borderline” cases), consider the crime/incident *reportable* for the purposes of SB 2080 and forward the appropriate reports to the Department of Justice.

RECORDED

SUPPLEMENTAL REPORT FOR
RACIAL, ETHNIC, AND RELIGIOUS CRIMES PROJECT (SB 2080)

AGENCY NAME	CASE NUMBER	DATE OF REPORT
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WOULD YOU CLASSIFY THIS CRIME/INCIDENT AS MOTIVATED BY: *(CHECK ONE OR MORE)*

☐ (1) RACE ☐ (2) ETHNICITY ☐ (3) RELIGION ☐ (4) SEXUAL ORIENTATION

WHAT IS THIS CLASSIFICATION BASED ON? *(CHECK ONE OR MORE)* ☐ (1) STATEMENT/ACTIONS BY VICTIM(S)

☐ (2) STATEMENT/ACTIONS BY SUSPECT(S) ☐ (3) STATEMENT/ACTIONS BY WITNESS(ES) ☐ (4) COMMUNITY RESPONSE

☐ (5) OFFICER'S OBSERVATION ☐ (X) OTHER _____

DEGREE OF MOTIVATION ☐ (1) STRONG ☐ (2) MODERATE ☐ (3) QUESTIONABLE

DID THIS CRIME/INCIDENT RESULT IN: *(CHECK ONE OR MORE)*

☐ (1) PHYSICAL INJURY ☐ (2) EMOTIONAL SUFFERING ☐ (3) PROPERTY DAMAGE ☐ (4) OTHER _____

COMMENTS:

PREPARED BY	TITLE	TELEPHONE NUMBER ()
-------------	-------	-------------------------------

ATTACH TO THE CRIME/INCIDENT REPORT AND FORWARD TO:

DEPARTMENT OF JUSTICE
BUREAU OF CRIMINAL STATISTICS AND SPECIAL SERVICES
RACIAL, ETHNIC, AND RELIGIOUS CRIMES PROJECT
P. O. BOX 13417, SACRAMENTO, CA 95813

INSTRUCTIONS ON REVERSE

INSTRUCTIONS FOR COMPLETION

A reportable crime/incident, for purposes of SB 2080, is any act or attempted act to cause physical injury, emotional suffering, or property damage, which is or appears to be motivated, all or in part, by the victim's race, ethnicity, religion, or sexual orientation.

Agency Name: Reporting agency.

Case Number: Enter the most reliable number for locating the case in your files. This can be the booking, citation, arrest, or crime/incident report number.

Date: Date of report.

What is the Classification Based on: Check one or more.

Degree of Motivation: Check one or more. Based on your observations and statements/actions of the involved parties (victims, suspects, witnesses), was the motivation for the crime/incident:

Strong — Primary or only motivation was race, ethnicity, religion, or sexual orientation.

Moderate — Other motivation(s) combined with racial, ethnic, religious, or sexual orientation motivation.

Questionable — After applying definitions and guidelines, motivation(s) cannot be definitely determined or is a "borderline" case.

Did this Crime/Incident Result in: Check one or more.

Prepared by: Enter the name, title, and telephone number (include extension) of the person preparing the Supplemental Report, i.e., patrol officer, sergeant, detective, etc.

Assembly Bill No. 2986

CHAPTER 1293

An act to amend Section 52 of, and to add Section 51.7 to, the Civil Code, and to amend Section 1419 of the Labor Code, relating to civil rights.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2986, Ralph. Civil rights: freedom from violence.

Existing state law provides that all persons are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments without regard to their sex, race, color, religion, ancestry, or national origin. All persons have the right to seek, obtain, and hold employment without discrimination because of race, religion, color, national origin, or sex.

Any person who denies another person's right to full and equal accommodations, advantages, facilities, privileges, or services in all business establishments, or who aids or incites such denial, is liable to the injured person for actual damages plus a \$250 penalty.

This bill would expressly provide that all persons have the right to be free from any violence, or intimidation by threat of violence, committed because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute. The bill would declare that this particular statute shall be known and may be cited as the Ralph Civil Rights Act of 1976.

The bill would provide civil remedies for a violation of the right and authorize the Attorney General to bring an action under appropriate circumstances. The bill would provide that its provisions are independent of any other remedies or procedures that may apply.

This bill would also provide that the Fair Employment Practices Commission may receive, investigate, and pass upon any complaint alleging a violation of the right granted by the bill and the existing right to full and equal accommodations, advantages, facilities, privileges, or services in all business establishments pursuant to the commission's existing procedures for making findings of fact, issuing cease and desist orders, and seeking injunctive relief in superior court.

The bill incorporates additional changes in Section 52 of the Civil Code made by Chapter 366 of the Statutes of 1976 (AB 2553). It also incorporates additional changes in Section 1419 of the Labor Code, proposed by AB 3124, to be effective only if AB 3124 and this bill are both chaptered and become effective January 1, 1976, and this bill is chaptered last.

Assembly Bill No. 848

CHAPTER 1437

An act to amend Section 51.7 of the Civil Code, relating to civil rights.

[Approved by Governor September 26, 1984. Filed with
Secretary of State September 26, 1984.]

LEGISLATIVE COUNSEL'S DIGEST

AB 848, Bates. Civil rights: sexual orientation.

Existing law provides that all persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute.

This bill would provide, in addition, that all persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their sexual orientation, as defined, age, or disability.

The people of the State of California do enact as follows:

SECTION 1. Section 51.7 of the Civil Code is amended to read:

51.7. (a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute.

(b) As used in this section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Ralph Civil Rights Act of 1976.

SEC. 2. Section 51.7 is added to the Civil Code, to read:

51.7. All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute.

SEC. 2.5. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, or who aids, or incites such denial, or whoever makes any discrimination, distinction or restriction on account of sex, color, race, religion, ancestry, or national origin contrary to the provisions of Section 51 or 51.5 of this code, is liable for each and every such offense for the actual damages, and such amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than two hundred fifty dollars (\$250), and such attorney's fees as may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5 of this code.

(b) Whoever denies the right provided by Section 51.7, or whoever aids, incites, or conspires in such denial, is liable for each and every such offense for the actual damages, and ten thousand dollars (\$10,000) in addition thereto, suffered by any person denied such right. In the case of multiple offenders, such ten-thousand-dollar (\$10,000) fine shall be prorated between them.

(c) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights hereby secured, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate court by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, or national origin, the Attorney General for or in the name of the people of the State of California may intervene in such action upon timely application if

the Attorney General certifies that the case is of general public importance. In such action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

SEC. 3. Section 1419 of the Labor Code as amended by Chapter 431 of the Statutes of 1975, is amended to read:

1419. The commission shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and such other offices within the state as the Legislature authorizes.

(b) To meet and function at any place within the state.

(c) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.

(f) (1) To receive, investigate and pass upon complaints alleging discrimination in employment because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, or sex.

(2) To receive, investigate, and pass upon complaints alleging a violation of Section 51 or 51.5 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(h) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, or sex, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical

condition, or sex.

(j) To investigate, approve, and certify equal employment opportunity programs proposed by a contractor to be engaged in pursuant to subdivision (b) of Section 1431, and to fix and collect such fees as are necessary for the cost of the investigation, approval or certification. The fees collected shall be paid into the General Fund of the State Treasury.

(k) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 4. Section 1419 of the Labor Code is amended to read:

1419. (a) The commission shall have the following functions, powers and duties:

(1) To establish and maintain a principal office and such other offices within the state as may be deemed necessary.

(2) To meet and function at any place within the state.

(3) To appoint an executive secretary, and such hearing officers and clerks as are necessary to carry out the functions, powers, and duties as prescribed by this part.

(4) To adopt, promulgate, amend, and rescind rules and regulations to carry out the provisions of this part.

(5) To receive, investigate and pass upon complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(6) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(7) To study and identify problem areas as demonstrated by caseload statistics, information obtained by public hearings, or other sources, and using the results thereof to establish priorities consistent with the purposes of this part to be followed by the chief in performing his or her function of preventing and eliminating discrimination in employment.

(8) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, or sex, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(9) To review, approve, or disapprove all contracts negotiated by the chief with local communities, other state agencies and federal agencies for the purpose of preventing and eliminating unlawful employment discrimination.

(10) To periodically review with the chief the work of the division.

(11) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

(12) To establish a system of published opinions to serve as precedent in interpreting and applying Sections 1420, 1421, and 1423 as well as any other section of this part pursuant to which the commission is authorized to issue decisions, findings, or orders.

(b) The commission may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical handicap, medical condition, sex, or age which impair the rights of persons in such communities under the Constitution or laws of the United States or of this state. The services of the commission may be made available in cases of such disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The commission's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3124 are both chaptered and change Section 1419 of the Labor Code, and this bill is chaptered after Assembly Bill No. 3124, that the changes in Section 1419 proposed by both bills be given effect and incorporated in Section 1419 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 3124 are both chaptered, both change Section 1419, and Assembly Bill No. 3124 is chaptered before this bill, in which case Section 3 of this act shall not become operative.

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10-7-85

PRESENTATION

by

JAMES P. McENTEE
President
California Association of
Human Rights Organization

TO: ATTORNEY GENERAL'S COMMISSION
ON
"RACIAL, ETHNIC, RELIGIOUS AND MINORITY VIOLENCE"

ON
"EFFECTIVENESS AND SUFFICIENCY OF EXISTING LEGISLATIVE
RELATING TO VIOLENCE AND BIGOTRY"

GOOD AFTERNOON! My name is James P. McEntee Sr. I am the Director of the Human Relations Commission of Santa Clara County and my experience is primarily in Santa Clara County; however I am here today as the President of the California Association of Human Rights Organizations (CAHRO) and I am representing that organization.

About three weeks ago, I was at a meeting, involving Human Relations and Civil Rights Activists. These are people who are on the front lines working with people from all different ethnics, religious, and racial backgrounds. I asked them what do they think of the Ralph Act? How does it help you in the resolution of ethnic, and racial conflicts? Their responses were along this line. "What are you talking about, McEntee?" "What Act?" "I never heard of it." There were a few who had heard of this Ralph Act but knew very little about it, and did not consider it significant in combating violence. There were some who knew that the Department of Fair Employment and Housing had some responsibility for its enforcement, but had little confidence in its implementation or enforcement.

I also talked to some law enforcement personnel. They really had no knowledge of the Act and clearly did not see it as a significant factor in their day to day work. It is clear that at the present time the Ralph Act does not seem to be considered effective or significant legislation in the battle against racial, religious, ethnic, and minority violence in our community.

I feel that the work that is being done by the Attorney General's Office under SB 2080 is an important start; however I also feel that there are too many restrictions on what is reportable and what is not reportable. I feel that any action that has any implications or overtones of ethnic, religious, or minority motivation should be reported.

A few weeks ago, I was involved in mediating a situation between a Cambodian and Chicano youth in a low income, high crime apartment complex. It started out with a couple of Chicano youths trying to take away a bicycle of a Cambodian youth. A fight ensued that escalated very quickly and involved adults and youths; knives were used and four youths were injured. Police were involved but I wonder if this ever was reported. The motivation in this situation was definitely racial. There is also a problem in getting accurate information because the majority of the incidents of violence against members of racial, religious, ethnic, and minority groups are never reported to any official agency. They do not report them because of fear of retaliation from those who perpetrated this violence or because of lack of confidence in the police department or official agencies. I feel that 80% to 90% of these incidents are never officially reported. The only ones who know about these incidents are the victims and possibly community workers in these communities.

There is also a problem that the community in general and community agencies know nothing about this SB 2080 project. If they know nothing about the project and if they have information that should become part of this report they will not know how to do it. I would like to make some recommendations for your consideration.

1. I would recommend that the Attorney General's Office convene in the very near future, a meeting of Human Relations Commissions, special interest groups serving the special needs communities, and Law Enforcement Agencies to discuss and study the Ralph Act, and other legislations and also develop a method of greater cooperation among all the groups which have a special interest in this area. The California Association of Human Rights Organizations would be willing to assist the Attorney General's Office in planning and implementing such a meeting.
2. I would encourage some real outreach to the community through radio, and T.V. spots and especially through the newspapers explaining this concern and giving individuals an opportunity to phone in incidents to a centralized number with the understanding that their call will remain confidential. The ethnic and cultural radio and television stations should be used especially in this process.

Finally, are there other ways that we can look into other forms of violence perpetrated against persons who are members of racial, religious, ethnic, and minority communities. I am referring to the conditions many of groups have been forced into in our community. On August 25, 26, 27, 1985, there was a series of articles which appeared in the San Jose Mercury News about Carnelian Drive in San Jose.

It described in detail how South East Asian Refugees along with a number of other ethnic minorities had been forced to live in subhuman conditions, because it is all that is available to them. They are crowded three to four families in two bedroom apartments; they are paying exorbitant rents to unscrupulous landlords on streets where city building codes and standards are not enforced. This is duplicated in many different areas of San Jose and Santa Clara County and this same situation is duplicated throughout the State.

This is violence against these people and violence breeds violence. It breeds violence within their communities and it encourages dislike and eventually violence against these people by the established community.

Many different disciplines must work together if we are to put an end to violence in our communities, specifically if we are to stop violence against racial, religious, ethnic, and minority groups.

I can assure you that the Human Relations Commissions throughout the State and specifically the California Association of Human Rights Organizations stands ready to work hand in hand with you to implement a multifaceted approach to end violence so as to make our communities better and safer for everyone.

Thank you for allowing me to make this presentation to you today; I am willing to answer any questions that you might have.



THE AMERICAN JEWISH COMMITTEE

SAN FRANCISCO BAY AREA CHAPTER • 121 Steuart Street, Suite 405, San Francisco, CA 94105 • (415) 777-3820

Testimony of Robert D. Links,
Chair of The American Jewish Committee's Asian-Jewish Task Force,
Presented to the California Attorney General's
Advisory Commission on Racial, Ethnic,
Religious and Minority Violence

October 7, 1985

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The American Jewish Committee is this nation's pioneer human rights organization. Ever since its founding in 1906, The American Jewish Committee has been dedicated to the defense of the civil rights and religious liberties of all Americans. The American Jewish Committee today has a membership of 50,000 families and we are proud to have the Honorable Morris Abnam, Chair of the United States Civil Rights Commission and Arthur J. Goldberg, former Justice of the United States Supreme Court as active leaders and past national presidents.

I have been active with The American Jewish Committee for the last seven years and currently serve as the Chairman of the San Francisco Bay Area Chapter's Asian-Jewish Task Force, an arm of our organization which was established to provide a bridge between the Asian and Jewish communities and, in particular, to vigorously respond to the wave of overt, and sometimes violent, anti-Asian prejudice that has surfaced in the past 18 months. Earlier this year, our Task Force was instrumental in collating and monitoring information about specific incidents and presenting that evidence to the United States Civil Rights Commission. Our efforts, and those of our colleagues in the civil rights community, helped bring about a decision of the Commission to conduct national hearings dealing with the problem of anti-Asian prejudice.

With that brief introduction, let me thank you for inviting The American Jewish Committee to present testimony on the issue of remedial legislation in the "hate crime" area. We strongly support the work you are doing and we urge you to take all available steps to strengthen the Ralph Civil Rights Act (Civil Code, Section 51.7).

I bring before you three viewpoints. The first is an institutional one, and I have already voiced it in general terms on behalf of The American Jewish Committee. A second viewpoint is that of a lawyer, which I am, and more specifically, a litigator who has spent 11 years litigating civil rights and constitutional law cases, among others. The third viewpoint is that of a concerned citizen who believes in the words of Justice Louis Brandeis, who said almost 60 years ago that government's greatest function is to act as teacher -- to teach us all by way of its example. If our government fails to uphold the law, we become a lawless people. And if government exercises vision and leadership, we can become a better and more just society. It is for this reason that it is so very important for you, as an advisory commission, to recommend the strengthening of this most vital statute. We must demonstrate to the public our collective will -- that our government will not tolerate violence, threats or intimidation that is motivated by racial, ethnic or religious hatred.

I think the Ralph Civil Rights Act needs to be strengthened in several specific ways. First of all, and to answer one of your written questions directly, it is important for the statute to spell out in clear terms which governmental department has enforcement responsibility. All too often, a citizen calls upon a public official for service, only to be told -- often times in good faith -- that "it's not my job". We need to fix the responsibility for enforcement so it cannot be avoided or evaded. We also need to appropriate the resources so that responsible officials will have the capacity to act, in addition to the duty to act.

Let me now take a moment to list some of the specific provisions that should be added to the statute. I will give a brief explanation of the reasons why each provision is needed.

Attorney Fees. When I reviewed the statute, I was amazed to find that it did not contain a standard "attorney fee" clause. Such clauses can be found in almost every significant civil rights statute. An attorney fee clause is important and necessary for the simple reason that we have had to rely on the private bar to enforce these rights. If we are going to take that approach, we must give lawyers an incentive to take these cases. Often this sort of litigation is difficult, time consuming and emotional. This reality, coupled with the added problem that victims of hate crimes often cannot afford the out-of-pocket cost of an attorney, means that we may have created a cause of action that sits unused because it is not economical to pursue the litigation. The simple cure is to add a clause that awards attorney fees to a successful party.

Creation of a Fund to pay Attorney Fees. Creating a right to attorney fees means little if the fees cannot be collected. In many cases, the defendant is judgment proof. Moreover, even if the defendant has assets, his property may be shielded from execution by various exemption statutes such as those found in the Code of Civil Procedure. Even if the defendant has an insurance policy, there often is no coverage for this type of case. Because of this situation, we should consider creating a state fund to pay attorney fees in these cases. In this way, a victim can litigate knowing that his lawyer can get paid if he wins.

Barring counterclaims until the case in chief is resolved. Another problem that many a plaintiff faces in these cases is that the defendant counterclaims, often for defamation or something like that. In order to streamline the process and avoid the chilling effect of such counterclaims, we should consider a procedure whereby the civil rights part of the case will be litigated first, with the counterclaims (if any) being held in abeyance. In this way, the plaintiff will have his or her day in court, while the defendant's rights are not seriously prejudiced.

Calendar priority. These cases should be granted preference so they come to trial before other cases on the court's docket.

Streamlined Injunction Procedure. The Ralph Civil Rights Act should be coordinated with the simplified "harrassment" injunction procedures set forth in Section 527.6 of the Code of Civil Procedure. Section 527.6 sets forth a quick and efficient remedy for persons who claim to be suffering from "harrassment" (as defined by statute). There are specific Judicial Council forms that are set up to assist the plaintiff and make it possible for an injured person to even seek relief without an attorney. I urge you to study these provisions and to consider incorporating them into the Ralph Civil Rights Act, or vice versa.

Criminal Penalties Should be Enacted, Including a Provision for Enhanced Sentences. There is no question in my mind that the activities that form the basis for civil liability under the Ralph Civil Rights Act should be the basis for criminal liability as well. There also should be a provision that requires enhanced sentences for persons who are convicted of so-called "hate" crimes. This is the most effective tool for government to send out the message that this sort of activity has no place in our society. Criminal penalties are needed to drive home the message that the hate mongers who seek to intimidate and persecute minority groups will be driven out of existence.

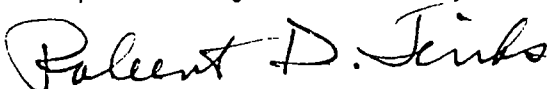
Enactment of a State Civil Rights Criminal Statute to Parallel the Federal Statute (18 U.S.C. Section 241, et seq). One thing we lack in California is a state civil rights statute that provides criminal liability that parallels the provisions of Section 241, et seq, of the United States Code. While this request may seem to duplicate the one I stated a moment ago, it raises a different point. Aside from the general proposition of establishing criminal penalties, there is a specific need to have a state statute that tracks its federal counterpart. The reason is to ensure that Federal prosecutors can back up state prosecutors and provide a double-barrelled attack in these cases. Under Federal Civil Rights law, the United States Attorney often files a parallel proceeding to buttress a state prosecution. They have such laws in Massachusetts and in Maryland, but we do not yet have such a law in California. I think the time has come.

Establishment of a Statewide "Clearinghouse" to Register Persons Convicted of Hate Crimes. Once a person is convicted of a hate crime, we should require that he be registered in Sacramento. We should also require the disclosure of such a conviction in connection with any application for employment. If we publicize this procedure, it will enable public interest groups to put pressure on employers not to hire persons who have committed these despicable acts. Moreover, the impact a convicted hate-monger can have in any workforce dictates the importance of requiring disclosure of this information.

If you have any questions, I would be pleased to entertain them.

Thank you again for giving me, on behalf of The American Jewish Committee, the opportunity to appear before you.

Respectfully submitted,



Robert D. Links
Chair, Asian-Jewish Task Force
American Jewish Committee
San Francisco Bay Area Chapter